

# **50 CFR PART 660, SUBPART G**

## **FEDERAL PACIFIC COAST GROUND FISH REGULATIONS**

### **FOR COMMERCIAL AND RECREATIONAL FISHING**

#### **3-200 NAUTICAL MILES**

#### **OFF WASHINGTON, OREGON, AND CALIFORNIA**

UNDER THE AUTHORITY OF  
THE MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT  
and  
THE PACIFIC COAST GROUND FISH FISHERY MANAGEMENT PLAN



Based on the regulations re-arranging rule at 69 FR 42345, July 15, 2004, as subsequently modified (an earlier version of these regulations, dated August 9, 2004, tracks previous changes) :

hake emergency rule - 69 FR 46448, August 3, 2004

amendment 16-3 (rebuilding plans for bocaccio, cowcod, widow, and yelloweye rockfish) - 69 FR 57874, September 28, 2004

amendment 16-3 final rule correction - 69 FR 61157, October 15, 2004

*Discrepancies or errors will be resolved in favor of the Federal Register.*

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## **50 CFR CHAPTER VI**

### **PART 660—FISHERIES OFF WEST COAST AND WESTERN PACIFIC STATES**

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Authority: 16 U.S.C. 1801 et seq.

## **Subpart A – General**

### **§ 660.1 Purpose and scope.**

(a) The regulations in this part govern fishing for Western Pacific and West Coast fishery management unit species by vessels of the United States that operate or are based inside the outer boundary of the EEZ off Western Pacific and West Coast States.

(b) General regulations governing fishing by all vessels of the United States and by fishing vessels other than vessels of the United States are contained in part 600 of this chapter.

### **§ 660.2 Relation to other laws.**

NMFS recognizes that any state law pertaining to vessels registered under the laws of that state while operating in the fisheries regulated under this part, and that is consistent with this part and the FMPs implemented by this part, shall continue in effect with respect to fishing activities regulated under this part.

### **§ 660.3 Reporting and recordkeeping.**

Except for fisheries subject to subparts D and F of this part, any person who is required to do so by applicable state law or regulation must make and/or file all reports of management unit species landings containing all data and in the exact manner required by applicable state law or regulation.

\* \* \* \* \* [subparts B through F for other fisheries would go here]

## **Subpart G – West Coast Groundfish Fisheries**

### **§ 660.301 Purpose and scope.**

(a) This subpart implements the Pacific Coast Groundfish Fishery Management Plan (PCGFMP) developed by the Pacific Fishery Management Council. This subpart governs groundfish fishing vessels of the U.S. in the EEZ off the coasts of Washington, Oregon, and California. All weights are in round weight or round-weight equivalents, unless specified otherwise.

(b) Any person fishing subject to this subpart is bound by the international boundaries described in this section, notwithstanding any dispute or negotiation between the U.S. and any neighboring country regarding their respective jurisdictions, until such time as new boundaries are established or recognized by the U.S.

**§ 660.302 Definitions.** {revised at 69 FR 57874, September 28, 2004; corrected at 69 FR 61157, October 15, 2004}

Active sampling unit means a portion of the groundfish fleet in which an observer coverage plan is being applied.

Address of record. Address of Record means the business address of a person, partnership, or corporation used by NMFS to provide notice of actions.

Allocation. (See §660.10).

At-sea processing means processing that takes place on a vessel or other platform that floats and is capable of being moved from one location to another, whether shoreside or on the water.

Biennial fishing period means a 24-month period beginning at 0001 local time on January 1 and ending at 2400 local time on December 31 of the subsequent year.

Catch, take, harvest. (See §660.10).

Closure, when referring to closure of a fishery, means that taking and retaining, possessing, or landing the particular species or species group is prohibited. Unless otherwise announced in the Federal Register, offloading must begin before the time the fishery closes.

Commercial fishing means:

- (1) Fishing by a person who possesses a commercial fishing license or is required by law to possess such license issued by one of the states or the Federal Government as a prerequisite to taking, landing and/or sale; or
- (2) Fishing that results in or can be reasonably expected to result in sale, barter, trade or other disposition of fish for other than personal consumption.

Commercial harvest guideline or commercial quota means the harvest guideline or quota after subtracting any allocation for the Pacific Coast treaty Indian tribes, for recreational fisheries, and for compensation fishing under § 660.350. Limited entry and open access allocations are based on the commercial harvest guideline or quota.

Council means the Pacific Fishery Management Council, including its Groundfish Management Team, Scientific and Statistical Committee (SSC), Groundfish Advisory Subpanel (GAP), and any other committee established by the Council.

Direct financial interest means any source of income to or capital investment or other interest held by an individual, partnership, or corporation or an individual's spouse, immediate family member or parent that could be influenced by performance or non-performance of observer duties.

Exempted gear means all types of fishing gear except longline, trap (or pot), and groundfish trawl gear. Exempted gear includes trawl gear used to take pink shrimp, ridgeback prawns, California halibut south of Pt. Arena, CA, and sea cucumber south of Pt. Arena, under the authority of a State of California limited entry permit for the sea cucumber fishery.

Fishery management area means the EEZ off the coasts of Washington, Oregon, and California between 3 and 200 nm offshore, and bounded on the north by the Provisional International Boundary between the U.S. and Canada, and bounded on the south by the International Boundary between the U.S. and Mexico. The inner boundary of the fishery management area is a line coterminous with the seaward boundaries of the States of Washington, Oregon, and California (the "3-mile limit"). The outer boundary of the fishery management area is a line drawn in such a manner that each point on it is 200 nm from the baseline from which the territorial sea is measured, or is a provisional or permanent international boundary between the U.S. and Canada or Mexico. All groundfish possessed between 0-200 nm offshore or landed in Washington, Oregon, or California are presumed to have been taken and retained from the EEZ, unless otherwise demonstrated by the person in possession of those fish.

Fishing. (See §660.10).

Fishing gear includes the following types of gear and equipment used in the groundfish fishery:

- (1) Bobbin trawl. The same as a roller trawl, a type of bottom trawl.
- (2) Bottom trawl. Bottom trawl. A trawl in which the otter boards or the footrope of the net are in contact with the seabed. It includes roller (or bobbin) trawls, Danish and Scottish seine gear, and pair trawls fished on the bottom. Any trawl net not meeting the requirements for a pelagic trawl in §660.310 is a bottom trawl.
- (3) Chafing gear. Webbing or other material attached to the codend of a trawl net to protect the codend from wear.
- (4) Codend. (See § 660.10 and 660.310(b)(4)).
- (5) Commercial vertical hook-and-line. Commercial fishing with hook-and-line gear that involves a single line anchored at the bottom and buoyed at the surface so as to fish vertically.
- (6) Double-bar mesh. Two lengths of twine tied into a single knot.
- (7) Double-walled codend. A codend constructed of two walls of webbing.
- (8) Fixed gear (anchored nontrawl gear). Longline, trap or pot, set net, and stationary hook-and-line (including commercial vertical hook-and-line) gears.

- (9) Footrope means a chain or wire rope attached to the bottom front end of a trawl net and attached to the trawl fishing line.
- (10) Gillnet. (See § 600.10).
- (11) Hook-and-line. One or more hooks attached to one or more lines. It may be stationary (commercial vertical hook-and-line) or mobile (troll).
- (12) Longline. A stationary, buoyed, and anchored groundline with hooks attached, so as to fish along the seabed. It does not include commercial vertical hook-and-line or troll gear.
- (13) Mesh size. The opening between opposing knots. Minimum mesh size means the smallest distance allowed between the inside of one knot to the inside of the opposing knot, regardless of twine size.
- (14) Nontrawl gear. All legal commercial groundfish gear other than trawl gear.
- (15) Pelagic (midwater or off-bottom) trawl. A trawl in which the otter boards may be in contact with the seabed but the footrope of the net remains above the seabed. It includes pair trawls if fished in midwater. A pelagic trawl has no rollers or bobbins on the net.
- (16) Pot. A trap.
- (17) Roller trawl (bobbin trawl). A trawl with footropes equipped with rollers or bobbins made of wood, steel, rubber, plastic, or other hard material that keep the footrope above the seabed, thereby protecting the net. A roller trawl is a type of bottom trawl.
- (18) Set net. A stationary, buoyed, and anchored gillnet or trammel net.
- (19) Single-walled codend. A codend constructed of a single wall of webbing knitted with single or double-bar mesh.
- (20) Spear. A sharp, pointed, or barbed instrument on a shaft.
- (21) Trammel net. A gillnet made with two or more walls joined to a common float line.
- (22) Trap (or pot). A portable, enclosed device with one or more gates or entrances and one or more lines attached to surface floats.
- (23) Trawl riblines. Heavy rope or line that runs down the sides, top, or underside of a trawl net from the mouth of the net to the terminal end of the codend to strengthen the net during fishing.

Fishing trip is a period of time between landings when fishing is conducted.

Fishing vessel. (See §660.10).

Fishing year is the year beginning at 0001 local time on January 1 and ending at 2400 local time on December 31 of the same year. There are two fishing years in each biennial fishing period.

**Groundfish** means species managed by the PCGFMP, specifically: {revised at 69 FR 57874, September 28, 2004; corrected at 69 FR 61157, October 15, 2004}

**Sharks:**

leopard shark, *Triakis semifasciata*  
soupfin shark, *Galeorhinus zyopterus*  
spiny dogfish, *Squalus acanthias*

**Skates:**

big skate, *Raja binoculata*  
California skate, *R. inornata*  
longnose skate, *R. rhina*

**Ratfish:**

ratfish, *Hydrolagus coliei*

**Morids:**

finescale codling, *Antimora microlepis*

**Grenadiers:**

Pacific rattail, *Coryphaenoides acrolepis*

**Roundfish:**

cabezon, *Scorpaenichthys marmoratus*  
kelp greenling, *Hexagrammos decagrammus*  
lingcod, *Ophiodon elongatus*  
Pacific cod, *Gadus macrocephalus*  
Pacific whiting, *Merluccius productus*  
sablefish, *Anoplopoma fimbria*

**Rockfish:<sup>1</sup>**

aurora rockfish, *Sebastes aurora*  
bank rockfish, *S. rufus*  
black rockfish, *S. melanops*  
black and yellow rockfish, *S. chrysomelas*  
blackgill rockfish, *S. melanostomus*  
blue rockfish, *S. mystinus*  
bocaccio, *S. paucispinis*  
bronzespotted rockfish, *S. gilli*  
brown rockfish, *S. auriculatus*  
calico rockfish, *S. dalli*  
California scorpionfish, *Scorpaena guttata*  
canary rockfish, *Sebastes pinniger*  
chameleon rockfish, *S. phillipsi*  
chilipepper, *S. goodei*  
China rockfish, *S. nebulosus*  
copper rockfish, *S. caurinus*  
cowcod, *S. levis*  
darkblotched rockfish, *S. crameri*  
dwarf-red rockfish, *S. rufinanus*  
dusky rockfish, *S. ciliatus*  
flag rockfish, *S. rubrivinctus*  
freckled rockfish, *S. lentiginosus*  
gopher rockfish, *S. carnatus*  
grass rockfish, *S. rastrelliger*  
greenblotched rockfish, *S. rosenblatti*  
greenspotted rockfish, *S. chlorostictus*  
greenstriped rockfish, *S. elongatus*  
half-banded rockfish, *S. semicinctus*  
harlequin rockfish, *S. variegatus*  
honeycomb rockfish, *S. umbrosus*  
kelp rockfish, *S. atrovirens*

longspine thornyhead, *Sebastolobus altivelis*

Mexican rockfish, *Sebastes macdonaldi*

olive rockfish, *S. serranoides*

Pacific ocean perch, *S. alutus*

pink rockfish, *S. eos*

pinkrose rockfish, *S. simulator*

pygmy rockfish, *S. wilsoni*

quillback rockfish, *S. maliger*

redbanded rockfish, *S. babcocki*

redstripe rockfish, *S. proriger*

rosethorn rockfish, *S. helvomaculatus*

rosy rockfish, *S. rosaceus*

rougeye rockfish, *S. aleutianus*

sharpchin rockfish, *S. zacentrus*

shortbelly rockfish, *S. jordani*

shortraker rockfish, *S. borealis*

shortspine thornyhead, *Sebastolobus alascanus*

silvergray rockfish, *Sebastes brevispinis*

speckled rockfish, *S. ovalis*

splitnose rockfish, *S. diploproa*

squarespot rockfish, *S. hopkinsi*

starry rockfish, *S. constellatus*

stripetail rockfish, *S. saxicola*

swordspine rockfish, *S. ensifer*

tiger rockfish, *S. nigrocinctus*

treefish, *S. serriceps*

vermilion rockfish, *S. miniatus*

widow rockfish, *S. entomelas*

yelloweye rockfish, *S. ruberrimus*

yellowmouth rockfish, *S. reedi*

yellowtail rockfish, *S. flavidus*

<sup>1</sup> All genera and species of the family Scorpaenidae that occur off Washington, Oregon, and California are included, even if not listed above. The Scorpaenidae genera are *Sebastes*, *Scorpaena*, *Scorpaenodes*, and *Sebastolobus*.

**Flatfish:**

arrowtooth flounder (arrowtooth turbot), *Atheresthes stomias*

butter sole, *Isopsetta isolepis*

curlfin sole, *Pleuronichthys decurrens*

Dover sole, *Microstomus pacificus*

English sole, *Parophrys vetulus*

flathead sole, *Hippoglossoides elassodon*

Pacific sanddab, *Citharichthys sordidus*

petrale sole, *Eopsetta jordani*

rex sole, *Glyptocephalus zachirus*

rock sole, *Lepidopsetta bilineata*

sand sole, *Psettichthys melanostictus*

starry flounder, *Platichthys stellatus*

Groundfish Conservation Area or GCA means a geographic area defined by coordinates expressed in degrees latitude and longitude, created and enforced for the purpose of contributing to the rebuilding of overfished West Coast groundfish species. Specific GCAs area referred to or defined at §660.390.

Groundfish trawl means trawl gear that is used under the authority of a valid limited entry permit issued under this subpart endorsed for trawl gear. It does not include any type of trawl gear listed as “exempted gear.”

Harvest guideline means a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not require closure of a fishery.

IAD means Initial Agency Decision.

Incidental catch or incidental species means groundfish species caught while fishing for the primary purpose of catching a different species.

Land or landing means to begin transfer of fish from a fishing vessel. Once transfer begins, all fish aboard the vessel are counted as part of the landing.

Legal fish means fish legally taken and retained, possessed, or landed in accordance with the provisions of 50 CFR part 660, the Magnuson-Stevens Act, any document issued under part 660, and any other regulation promulgated or permit issued under the Magnuson-Stevens Act.

Length overall (LOA) (with respect to a vessel) means the length overall set forth in the Certificate of Documentation (CG-1270) issued by the USCG for a documented vessel, or in a registration certificate issued by a state or the USCG for an undocumented vessel; for vessels that do not have the LOA stated in an official document, the LOA is the LOA as determined by the USCG or by a marine surveyor in accordance with the USCG method for measuring LOA.

Limited entry fishery means the fishery composed of vessels using trawl gear, longline, and trap (or pot) gear fished pursuant to the harvest guidelines, quotas, and other management measures governing the limited entry fishery.

Limited entry gear means longline, trap (or pot), or groundfish trawl gear used under the authority of a valid limited entry permit affixed with an endorsement for that gear.

Limited entry permit means the permit required to participate in the limited entry fishery, and includes the gear endorsements affixed to the permit unless specified otherwise.



Mobile transceiver unit means a vessel monitoring system or VMS device, as set forth at §660.312, installed on board a vessel that is used for vessel monitoring and transmitting the vessel's position as required by this subpart.

North-South management area means the management areas defined in paragraphs (1)(i) through (v) of this definition (Vancouver, Columbia, Eureka, Monterey Conception) or defined and bounded by one or more of the commonly used geographic coordinates set out in paragraphs (2)(i) through (xi) of this definition for the purposes of implementing different management measures in separate sections of the U.S. West Coast.

(1) Management areas--

(i) Vancouver.

(A) The northeastern boundary is that part of a line connecting the light on Tatoosh Island, WA, with the light on Bonilla Point on Vancouver Island, British Columbia (at 48°35'75" N. lat., 124°43'00" W. long.) south of the International Boundary between the U.S. and Canada (at 48° 29'37.19" N. lat., 124°43'33.19" W. long.), and north of the point where that line intersects with the boundary of the U.S. territorial sea.

(B) The northern and northwestern boundary is a line connecting the following coordinates in the order listed, which is the provisional international boundary of the EEZ as shown on NOAA/NOS Charts 18480 and 18007:

Point	N. Lat.	W. Long.
1.....	48°29'37.19"	124°43'33.19"
2.....	48°30'11"	124°47'13"
3.....	48°30'22"	124°50'21"
4.....	48°30'14"	124°54'52"
5.....	48°29'57"	124°59'14"
6.....	48°29'44"	125°00'06"
7.....	48°28'09"	125°05'47"
8.....	48°27'10"	125°08'25"
9.....	48°26'47"	125°09'12"
10.....	48°20'16"	125°22'48"
11.....	48°18'22"	125°29'58"
12.....	48°11'05"	125°53'48"
13.....	47°49'15"	126°40'57"
14.....	47°36'47"	127°11'58"

15.....	47°22'00"	127°41'23"
16.....	46°42'05"	128°51'56"
17.....	46°31'47"	129°07'39"

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(C) The southern limit is 47°30' N. lat.

(ii) Columbia.

(A) The northern limit is 47°30' N. lat.

(B) The southern limit is 43°00' N. lat.

(iii) Eureka.

(A) The northern limit is 43°00' N. lat.

(B) The southern limit is 40°30' N. lat.

(iv) Monterey.

(A) The northern limit is 40°30' N. lat.

(B) The southern limit is 36°00' N. lat.

(v) Conception.

(A) The northern limit is 36°00' N. lat.

(B) The southern limit is the U.S.-Mexico International Boundary, which is a line connecting the following coordinates in the order listed:

Point	N. Lat.	W. Long.
1.....	32°35'22"	117°27'49"
2.....	32°37'37"	117°49'31"
3.....	31°07'58"	118°36'18"
4.....	30°32'31"	121°51'58"

(2) Commonly used geographic coordinates.

(i) Washington/Oregon border 46°16' N. lat.

(ii) Cape Falcon, OR--45°46' N. lat.

(iii) Cape Lookout, OR--45°20'15" N. lat.

(iv) Cape Blanco, OR--42°50' N. lat.

(v) Oregon/California border--42°00' N. lat.

(vi) Cape Mendocino, CA--40°30' N. lat.

(vii) North/South management line--40°10' N. lat.

(viii) Point Arena, CA--38°57'30" N. lat.

- (ix) Point San Pedro, CA--37°35'40" N. lat.
- (x) Point Lopez, CA--36°00' N. lat.
- (xi) Point Conception, CA--34°27' N. lat.

Observer Program Office means the Observer Program Office of the Northwest Fishery Science Center, National Marine Fisheries Service, Seattle, Washington.

Office for Law Enforcement (OLE) refers to the National Marine Fisheries Service, Office for Law Enforcement, Northwest Division.

Open access fishery means the fishery composed of vessels using open access gear fished pursuant to the harvest guidelines, quotas, and other management measures governing the open access fishery. Any commercial fishing vessel that does not have a limited entry permit and which lands groundfish in the course of commercial fishing is a participant in the open access fishery.

Open access gear means all types of fishing gear except:

- (1) Longline or trap (or pot) gear fished by a vessel that has a limited entry permit affixed with a gear endorsement for that gear.
- (2) Trawl gear.

Operator. (See §660.10).

Optimum yield (OY) means the amount of fish that will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and, taking into account the protection of marine ecosystems, is prescribed as such on the basis of the MSY from the fishery, as reduced by any relevant economic, social, or ecological factor; and, in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the MSY in such fishery. OY may be expressed numerically (as a harvest guideline, quota, or other specification) or non-numerically.

Overage means the amount of fish harvested by a vessel in excess of the applicable trip limit.

Owner of a vessel or vessel owner, as used in this subpart, means a person identified as the current owner in the Certificate of Documentation (CG-1270) issued by the USCG for a documented vessel, or in a registration certificate issued by a state or the USCG for an undocumented vessel.

Ownership interest, with respect to a sablefish endorsed permit, means participation in ownership of a corporation, partnership, or other entity that owns a sablefish endorsed permit. Participation in ownership does not mean owning stock in a publicly owned corporation.

Pacific Coast Groundfish Fishery Management Plan (PCGFMP) means the Fishery Management Plan for the Washington, Oregon, and California Groundfish Fishery developed by the Pacific Fishery Management Council and approved by the Secretary on January 4, 1982, and as it may be subsequently amended.

Permit holder means a permit owner or a permit lessee.

Permit lessee means a person who has the right to possess and use a limited entry permit for a designated period of time, with reversion of those rights to the permit owner. A permit lessee does not have the right to transfer a permit or change the ownership of the permit.

Permit owner means a person who owns a limited entry permit.

Person, as it applies to limited entry and open access fisheries conducted under this subpart, means any individual, corporation, partnership, association or other entity (whether or not organized or existing under the laws of any state), and any Federal, state, or local government, or any entity of any such government that is eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a).

Processing or to process means the preparation or packaging of groundfish to render it suitable for human consumption, retail sale, industrial uses or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, filleting, freezing, or rendering into meal or oil, but does not mean heading and gutting unless additional preparation is done.

Processor means person, vessel, or facility that (1) engages in processing; or (2) receives live groundfish directly from a fishing vessel for retail sale without further processing.

Prohibited species means those species and species groups whose retention is prohibited unless authorized by other applicable law (for example, to allow for examination by an authorized observer or to return tagged fish as specified by the tagging agency).

Quota means a specified numerical harvest objective, the attainment (or expected attainment) of which causes closure of the fishery for that species or species group.

Recreational fishing means fishing with authorized recreational fishing gear for personal use only, and not for sale or barter.

Regional Administrator means the Administrator, Northwest Region, NMFS. For fisheries occurring primarily or exclusively in the fishery management area seaward of California, “Regional Administrator” means the Administrator, Northwest Region, NMFS, acting upon the recommendation of the Administrator, Southwest Region, NMFS.

Reserve means a portion of the harvest guideline or quota set aside at the beginning of the fishing year or biennial fishing period to allow for uncertainties in preseason estimates.

Round weight (See § 600.10).

Secretary. (See §660.10).

Sell or sale. (See §660.10).

Scientific research activity. (See §660.10).

Shoreside processing means processing that takes place in a facility that is fixed permanently to land.

Specification is a numerical or descriptive designation of a management objective, including but not limited to: ABC; optimum yield; harvest guideline; quota; limited entry or open access allocation; a set aside or allocation for a recreational or treaty Indian fishery; an apportionment of the above to an area, gear, season, fishery, or other subdivision.

Sustainable Fisheries Division (SFD) means the Chief, Sustainable Fisheries Division, Northwest Regional Office, NMFS, or a designee.

Target fishing means fishing for the primary purpose of catching a particular species or species group (the target species).

Tax-exempt organization means an organization that received a determination letter from the Internal Revenue Service recognizing tax exemption under 26 CFR part 1 (Secs. 1.501 to 1.640).

Totally lost means the vessel being replaced no longer exists in specie, or is absolutely and irretrievably sunk or otherwise beyond the possible control of the owner, or the costs of repair (including recovery) would exceed the repaired value of the vessel.

Trawl fishing line means a length of chain or wire rope in the bottom front end of a trawl net to which the webbing or lead ropes are attached.

Trip. (See §660.10).

Trip limit Trip limits. Trip limits are used in the commercial fishery to specify the maximum amount of a fish species or species group that may legally be taken and retained, possessed, or landed, per vessel, per fishing trip, or cumulatively per unit of time, or the number of landings that may be made from a vessel in a given period of time, as follows:

(1) A per trip limit is the total allowable amount of a groundfish species or species group, by weight, or by percentage of weight of legal fish on board, that may be taken and retained, possessed, or landed per vessel from a single fishing trip.

(2) A daily trip limit is the maximum amount of a groundfish species or species group that may be taken and retained, possessed, or landed per vessel in 24 consecutive hours, starting at 0001 hours local time (l.t.) Only one landing of groundfish may be made in that 24-hour period. Daily trip limits may not be accumulated during multiple day trips.

(3) A weekly trip limit is the maximum amount of a groundfish species or species group that may be taken and retained, possessed, or landed per vessel in 7 consecutive days, starting at 0001 hours l.t. on Sunday and ending at 2400 hours l.t. on Saturday. Weekly trip limits may not be accumulated during multiple week trips. If a calendar week includes days within two different months, a vessel is not entitled to two separate weekly limits during that week.

(4) A cumulative trip limit is the maximum amount of a groundfish species or species group that may be taken and retained, possessed, or landed per vessel in a specified period of time without a limit on the number of landings or trips, unless otherwise specified. The cumulative trip limit periods for limited entry and open access fisheries, which start at 0001 hours l.t. and end at 2400 hours l.t., are as follows, unless otherwise specified:

(i) The 2-month or “major” cumulative limit periods are: January 1-February 28/29, March 1-April 30, May 1-June 30, July 1-August 31, September 1-October 31, and, November 1-December 31.

(ii) One month means the first day through the last day of the calendar month.

(iii) One week means 7 consecutive days, Sunday through Saturday.

Vessel manager means a person or group of persons whom the vessel owner has given authority to oversee all or a portion of groundfish fishing activities aboard the vessel.

Vessel monitoring system or VMS means a vessel monitoring system or mobile transceiver unit as set forth in §660.312 and approved by NMFS for use on vessels that take (directly or incidentally) species managed under the Pacific Coast Groundfish FMP, as required by this subpart.

Vessel of the United States or U.S. vessel. (See §660.10).

**§ 660.303 Reporting and recordkeeping.**

(a) This subpart recognizes that catch and effort data necessary for implementing the PCGFMP are collected by the States of Washington, Oregon, and California under existing state data collection requirements. Telephone surveys of the domestic industry may be conducted by NMFS to determine amounts of whiting that may be available for reallocation under 50 CFR 660.323(c). No Federal reports are required of fishers or processors, so long as the data collection and reporting systems operated by state agencies continue to provide NMFS with statistical information adequate for management.

(b) Any person who is required to do so by the applicable state law must make and/or file, retain, or make available any and all reports (i.e., logbooks, fish tickets, etc.) of groundfish harvests and landings containing all data, and in the exact manner, required by the applicable state law.

(c) Any person landing groundfish must retain on board the vessel from which groundfish is landed, and provide to an authorized officer upon request, copies of any and all reports of groundfish landings containing all data, and in the exact manner, required by the applicable state law throughout the cumulative limit period during which a landing occurred and for 15 days thereafter.

(d) Reporting requirements for vessels fishing in conservation areas—

(1) Declaration reports for trawl vessels intending to fish in a conservation area. The operator of any vessel registered to a limited entry permit with a trawl endorsement; any vessel using trawl gear, including exempted gear used to take pink shrimp, ridgeback prawns, California halibut and sea cucumber; or any tribal vessel using trawl gear must provide NMFS with a declaration report, as specified at paragraph §660.303(d)(5) of this section, to identify the intent to fish within the CCA, as defined at §660.304, or any non-trawl RCA, as defined in the groundfish annual or biennial management measures that are published in the Federal Register.

(2) Declaration reports for non-trawl vessels intending to fish in a conservation area. The operator of any vessel registered to a limited entry permit with a longline or pot endorsement must provide NMFS OLE with a declaration report, as specified at paragraph (d)(5) of this section, to identify the intent to fish within the CCA, as defined at §660.390, or any non-trawl RCA, as defined in the groundfish annual management measures that are published in the Federal Register.

(3) When a declaration report for fishing in a conservation area is required, as specified in paragraphs (d)(1) and (d)(2) of this section, it must be submitted before the vessel leaves port:

(i) On a trip in which the vessel will be used to fish in a conservation area for the first time during the calendar year;

- (ii) On a trip in which the vessel will be used to fish in a conservation area with a gear type that is different from the gear declaration provided on a valid declaration report as defined at paragraph 660.303(d)(6) of this section; or
- (iii) On a trip in which the vessel will be used to fish in a conservation area for the first time after a declaration report to cancel fishing in a conservation area was received by NMFS.

(4) Declaration report to cancel fishing in a conservation area. The operator of any vessel that provided NMFS with a declaration report for fishing in a conservation area, as required at paragraphs (d)(1) or (d)(2) of this section, must submit a declaration report to NMFS OLE to cancel the current declaration report before the vessel leaves port on a trip in which the vessel is used to fish with a gear that is not in the same gear category set out in paragraph § 660.303(d)(5)(i) declared by the vessel in the current declaration.

(5) Declaration reports will include: the vessel name and/or identification number, and gear declaration (as defined in § 660.303(d)(5)(i)). Upon receipt of a declaration report, NMFS will provide a confirmation code or receipt. Retention of the confirmation code or receipt to verify that the declaration requirement was met is the responsibility of the vessel owner or operator.

- (i) One of the following gear types must be declared:

- (A) Limited entry fixed gear,
- (B) Limited entry midwater trawl,
- (C) Limited entry bottom trawl,
- (D) Trawl gear including exempted gear used to take pink shrimp, ridgeback prawns, California halibut south of Pt. Arena, CA, and sea cucumber.
- (E) Tribal trawl,
- (F) Other gear including: gear used to take spot and ridgeback prawns, crab or lobster, Pacific halibut, salmon, California halibut, California sheephead, highly migratory species, species managed under the Coastal Pelagic Species Fishery Management Plan, and any species in the gillnet complex as managed by the State of California,
- (G) Non-trawl gear used to take groundfish.

(ii) Declaration reports must be submitted through the VMS or another method that is approved by NMFS OLE and announced in the Federal Register. Other methods may include email, facsimile, or telephone. NMFS OLE will provide, through appropriate media, instructions to the public on submitting declaration reports. Instructions and other information needed to make declarations may be mailed to the limited entry permit owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record and is not received because the permit owner's actual address has changed without notification to NMFS, as required at § 660.335(a)(2). Owners of vessels that are not registered to limited entry permits and owners of vessels registered to limited entry permits that did not receive instructions by mail are responsible for contacting NMFS OLE during business hours at least 3 days before the declaration is required to



obtain information needed to make declaration reports. NMFS OLE must be contacted during business hours (Monday through Friday between 0800 and 1700 Pacific Time).

(6) A declaration report will be valid until a declaration report to revise the existing gear declaration or a declaration report to cancel fishing in a conservation area is received by NMFS OLE. During the period that a vessel has a valid declaration report on file with NMFS, it cannot fish with a gear other than a gear type that is within the gear category (50 CFR 660.303(d)(5)) declared by the vessel. After a declaration report to cancel fishing in the RCA is received, that vessel must not fish in a conservation area until another declaration report for fishing by that vessel in a conservation area is received by NMFS.

#### **§ 660.305 Vessel identification.**

(a) Display. The operator of a vessel that is over 25 ft (7.6 m) in length and is engaged in commercial fishing for groundfish must display the vessel's official number on the port and starboard sides of the deckhouse or hull, and on a weather deck so as to be visible from above. The number must contrast with the background and be in block Arabic numerals at least 18 inches (45.7 cm) high for vessels over 65 ft (19.8 m) long and at least 10 inches (25.4 cm) high for vessels between 25 and 65 ft (7.6 and 19.8 m) in length. The length of a vessel for purposes of this section is the length set forth in USCG records or in state records, if no USCG record exists.

(b) Maintenance of numbers. The operator of a vessel engaged in commercial fishing for groundfish must keep the identifying markings required by paragraph (a) of this section clearly legible and in good repair, and must ensure that no part of the vessel, its rigging, or its fishing gear obstructs the view of the official number from an enforcement vessel or aircraft.

(c) Commercial passenger vessels. This section does not apply to vessels carrying fishing parties on a per-capita basis or by charter.

### **§ 660.306 Prohibitions.**

In addition to the general prohibitions specified in § 600.725 of this chapter, it is unlawful for any person to:

#### **(a) General.**

- (1) Sell, offer to sell, or purchase any groundfish taken in the course of recreational groundfish fishing.
- (2) Retain any prohibited species (defined in § 660.302 and restricted in § 660.370(e)) caught by means of fishing gear authorized under this subpart or unless authorized by part 600 of this chapter. Prohibited species must be returned to the sea as soon as practicable with a minimum of injury when caught and brought on board.
- (3) Falsify or fail to affix and maintain vessel and gear markings as required by § 660.305 or § 660.310.
- (4) Fish for groundfish in violation of any terms or conditions attached to an EFP under § 600.745 of this chapter or § 660.350.
- (5) Fish for groundfish using gear not authorized under § 660.310 or in violation of any terms or conditions attached to an EFP under § 660.350 or part 600 of this chapter.
- (6) Take and retain, possess, or land more groundfish than specified under § 660.370 through 660.373, or under an EFP issued under § 660.350 or part 600 of this chapter.
- (7) Fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, size limit, quota, or harvest guideline, if the vessel fished or landed in an area during a time when such trip limit, size limit, harvest guideline or quota applied.
- (8) Possess, deploy, haul, or carry onboard a fishing vessel subject to this subpart a set net, trap or pot, longline, or commercial vertical hook-and-line that is not in compliance with the gear restrictions in § 660.310, unless such gear is the gear of another vessel that has been retrieved at sea and made inoperable or stowed in a manner not capable of being fished. The disposal at sea of such gear is prohibited by Annex V of the International Convention for the Prevention of Pollution From Ships, 1973 (Annex V of MARPOL 73/78).
- (9) Refuse to submit fishing gear or fish subject to such person's control to inspection by an authorized officer, or to interfere with or prevent, by any means, such an inspection.
- (10) Take, retain, possess, or land more than a single cumulative limit of a particular species, per vessel, per applicable cumulative limit period, except for sablefish taken in the primary limited entry, fixed gear sablefish season from a vessel authorized under § 660.372(a) to participate in that season, as described at § 660.372(b).
- (11) Take and retain, possess, or land groundfish in excess of the landing limit for the open access fishery without having a valid limited entry permit for the vessel affixed with a gear endorsement for the gear used to catch the fish.

(b) Reporting and recordkeeping.

- (1) Falsify or fail to make and/or file, retain or make available any and all reports of groundfish landings, containing all data, and in the exact manner, required by the applicable State law, as specified in § 660.303, provided that person is required to do so by the applicable state law.
- (2) Fail to retain on board a vessel from which groundfish is landed, and provide to an authorized officer upon request, copies of any and all reports of groundfish landings, or receipts containing all data, and made in the exact manner required by the applicable state law throughout the cumulative limit period during which such landings occurred and for 15 days thereafter.

(c) Limited entry fisheries.

- (1) Fish with groundfish trawl gear, or carry groundfish trawl gear on board a vessel that also has groundfish on board, without having a limited entry permit valid for that vessel affixed with a gear endorsement for trawl gear, with the following exception. A vessel with groundfish on board may carry groundfish trawl gear if:
  - (i) The vessel is in continuous transit from outside the fishery management area to a port in Washington, Oregon, or California; or
  - (ii) The vessel is a mothership, in which case trawl nets and doors must be stowed in a secured and covered manner, and detached from all towing lines, so as to be rendered unusable for fishing.
- (2) Carry on board a vessel, or deploy, limited entry gear when the limited entry fishery for that gear is closed, except a vessel may carry on board limited entry gear as provided in paragraph (c)(1) of this section.

(d) Black rockfish fisheries. Have onboard a commercial hook-and-line fishing vessel (other than a vessel operated by persons under § 660.370(c)(1)(ii), more than the amount of the trip limit set for black rockfish by § 660.371 while that vessel is fishing between the U.S.-Canada border and Cape Alava (48°09'30" N. lat.), or between Destruction Island (47°40'00" N. lat.) and Leadbetter Point (46°38'10" N. lat.).

(e) Sablefish fisheries. Take, retain, possess or land sablefish under the cumulative limits provided for the primary limited entry, fixed gear sablefish season, described in § 660.372, from a vessel that is not registered to a limited entry permit with a sablefish endorsement.

(f) Pacific whiting fisheries.

- (1) Process whiting in the fishery management area during times or in areas where at-sea processing is prohibited for the sector in which the vessel participates, unless:
  - (i) The fish are received from a member of a Pacific Coast treaty Indian tribe fishing under § 660.324;

(ii) The fish are processed by a waste-processing vessel according to § 660.373(i); or

(iii) The vessel is completing processing of whiting taken on board during that vessel's primary season.

(2) Take and retain or receive, except as cargo or fish waste, whiting on a vessel in the fishery management area that already possesses processed whiting on board, during times or in areas where at-sea processing is prohibited for the sector in which the vessel participates, unless the fish are received from a member of a Pacific Coast treaty Indian tribe fishing under § 660.324.

(3) Participate in the mothership or shoreside sector as a catcher vessel that does not process fish, if that vessel operates in the same calendar year as a catcher/processor in the whiting fishery, according to § 660.373(h)(2).

(4) Operate as a waste-processing vessel within 48 hours of a primary season for whiting in which that vessel operates as a catcher/processor or mothership, according to § 660.373(i).

(5) Fail to keep the trawl doors on board the vessel and attached to the trawls on a vessel used to fish for whiting, when taking and retention is prohibited under § 660.373(f).

(g) Limited entry permits.

(1) Fail to carry on board a vessel the limited entry permit registered for use with that vessel, if a limited entry permit is registered for use with that vessel.

(2) Make a false statement on an application for issuance, renewal, transfer, vessel registration, or replacement of a limited entry permit.

(h) Fishing in conservation areas.

(1) Fish with any trawl gear, including exempted gear used to take pink shrimp, ridgeback prawns, California halibut south of Pt. Arena, CA, and sea cucumber; or with trawl gear from a tribal vessel or with any gear from a vessel registered to a groundfish limited entry permit in a conservation area unless the vessel owner or operator has a valid declaration confirmation code or receipt for fishing in a conservation area as specified at § 660.303(d)(5).

(2) Operate any vessel registered to a limited entry permit with a trawl endorsement and trawl gear on board in a Trawl Rockfish Conservation Area or a Cowcod Conservation Area (as defined at § 660.302), except for purposes of continuous transiting, with all groundfish trawl gear stowed in accordance with § 660.310(b)(7), or except as authorized in the annual or biennial groundfish management measures published in the Federal Register.

(3) Operate any vessel registered to a limited entry permit with a longline or trap (pot) endorsement and longline and/or trap gear onboard in a Nontrawl Rockfish Conservation Area or a Cowcod Conservation Area (as defined at § 660.302), except for purposes of continuous transiting, or except as authorized in the annual or biennial groundfish management measures published in the Federal Register.

(i) Groundfish observer program.

- (1) Forcibly assault, resist, oppose, impede, intimidate, harass, sexually harass, bribe, or interfere with an observer.
- (2) Interfere with or bias the sampling procedure employed by an observer, including either mechanically or physically sorting or discarding catch before sampling.
- (3) Tamper with, destroy, or discard an observer's collected samples, equipment, records, photographic film, papers, or personal effects without the express consent of the observer.
- (4) Harass an observer by conduct that:
  - (i) Has sexual connotations,
  - (ii) Has the purpose or effect of interfering with the observer's work performance, and/or
  - (iii) Otherwise creates an intimidating, hostile, or offensive environment. In determining whether conduct constitutes harassment, the totality of the circumstances, including the nature of the conduct and the context in which it occurred, will be considered. The determination of the legality of a particular action will be made from the facts on a case-by-case basis.
- (5) Fish for, land, or process fish without observer coverage when a vessel is required to carry an observer under § 660.314(c).
- (6) Require, pressure, coerce, or threaten an observer to perform duties normally performed by crew members, including, but not limited to, cooking, washing dishes, standing watch, vessel maintenance, assisting with the setting or retrieval of gear, or any duties associated with the processing of fish, from sorting the catch to the storage of the finished product.
- (7) Fail to provide departure or cease fishing reports specified at § 660.312(c)(2).
- (8) Fail to meet the vessel responsibilities specified at § 660.312(d).

(j) Vessel monitoring systems.

- (1) Use any vessel registered to a limited entry permit to operate in State or Federal waters seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California, unless that vessel carries a NMFS OLE type-approved mobile transceiver unit and complies with the requirements described at § 660.312.
- (2) Fail to install, activate, repair or replace a mobile transceiver unit prior to leaving port as specified at § 660.312.
- (3) Fail to operate and maintain a mobile transceiver unit on board the vessel at all times as specified at § 660.312.
- (4) Tamper with, damage, destroy, alter, or in any way distort, render useless, inoperative, ineffective, or inaccurate the VMS, mobile transceiver unit, or VMS signal required to be installed on or transmitted by a vessel as specified at § 660.312.
- (5) Fail to contact NMFS OLE or follow NMFS OLE instructions when automatic position reporting has been interrupted as specified at § 660.312.

(6) Register a VMS transceiver unit registered to more than one vessel at the same time.

**§ 660.310 Gear restrictions and gear identification.**

(a) General. The following types of fishing gear are authorized, with the restrictions set forth in this section: Trawl (bottom and pelagic), hook-and-line, longline, pot or trap, set net (anchored gillnet or trammel net), and spear.

(b) Trawl gear—

(1) Use. Trawl nets may be used on and off the seabed. Trawl nets may be fished with or without otter boards, and may use warps or cables to herd fish.

(2) Mesh size. Trawl nets may be used if they meet the minimum mesh sizes set forth in this paragraph (b)(2). The minimum sizes apply throughout the net. Minimum trawl mesh size requirements are met if a 20-gauge stainless steel wedge, 3.0 or 4.5 inches (7.6 or 11.4 cm) (depending on the gear being measured), less one thickness of the metal wedge, can be passed with only thumb pressure through at least 16 of 20 sets of two meshes each of wet mesh.

**Minimum Trawl-Mesh Size In Inches \1\**

Trawl conception type	Subarea			
	<i>Vancouver</i>	<i>Columbia</i>	<i>Eureka</i>	<i>Monterey</i>
Bottom.....	4.5	4.5	4.5	4.5
Pelagic.....	3.0	3.0	3.0	3.0

\1\ Metric conversion: 3.0 inches = 7.6 cm; 4.5 inches = 11.4 cm.

(3) Chafing gear. Chafing gear may encircle no more than 50 percent of the net's circumference, except as provided in paragraph (b)(5) of this section. No section of chafing gear may be longer than 50 meshes of the net to which it is attached. Except at the corners, the terminal end of each section of chafing gear must not be connected to the net. (The terminal end is the end farthest from the mouth of the net.) Chafing gear must

be attached outside any riblines and restraining straps. There is no limit on the number of sections of chafing gear on a net.

(4) Codends. Only single-walled codends may be used in any trawl. Double-walled codends are prohibited.

(5) Large and small footrope trawl gear. Large footrope gear is bottom trawl gear, as specified at § 660.302, with a footrope diameter larger than 8 inches (20 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope.) Small footrope trawl gear is bottom trawl gear, as specified at § 660.302 and herein at paragraph (b) of this section, with a footrope diameter of 8 inches (20 cm) or smaller (including rollers, bobbins or other material encircling or tied along the length of the footrope). Chafing gear may be used only on the last 50 meshes of a small footrope trawl, measured from the terminal (closed) end of the codend. Other lines or ropes that run parallel to the footrope may not be augmented to violate the footrope size restrictions. For enforcement purposes, the footrope will be measured in a straight line from the outside edge to the opposite outside edge at the widest part on any individual part, including any individual disk, roller, bobbin, or any other device.

(6) Pelagic or “midwater” trawls. Pelagic trawl nets must have unprotected footropes at the trawl mouth, and must not have rollers, bobbins, tires, wheels, rubber discs, or any similar device anywhere in the net. The footrope of pelagic gear may not be enlarged by encircling it with chains or by any other means. Ropes or lines running parallel to the footrope of pelagic trawl gear must be bare and may not be suspended with chains or any other materials. Sweepings, including the bottom leg of the bridle, must be bare. For at least 20 ft (6.15 m) immediately behind the footrope or headrope, bare ropes or mesh of 16-inch (40.6-cm) minimum mesh size must completely encircle the net. A band of mesh (a “skirt”) may encircle the net under transfer cables, lifting or splitting straps (chokers), but must be: Over riblines and restraining straps; the same mesh size and coincide knot-to-knot with the net to which it is attached; and no wider than 16 meshes.

(7) Trawl vessels may transit through the trawl RCA, with or without groundfish on board, provided all groundfish trawl gear is stowed either:

- (i) Below deck; or
- (ii) If the gear cannot readily be moved, in a secured and covered manner, detached from all towing lines, so that it is rendered unusable for fishing; or
- (iii) Remaining on deck uncovered if the trawl doors are hung from their stanchions and the net is disconnected from the doors.

(c) Fixed gear—

(1) Fixed gear (longline, trap or pot, set net and stationary hook-and-line gear, including commercial vertical hook-and-line gear) must be:

- (i) Marked at the surface, at each terminal end, with a pole, flag, light, radar reflector, and a buoy, except as provided in paragraph (c)(2) of this section.
- (ii) Attended at least once every 7 days.

(2) Commercial vertical hook-and-line gear that is closely tended may be marked only with a single buoy of sufficient size to float the gear. “Closely tended” means that a

vessel is within visual sighting distance or within 0.25 nm (463 m) as determined by electronic navigational equipment, of its commercial vertical hook-and-line gear.

(3) A buoy used to mark fixed gear under paragraph (c)(1)(i) or (c)(2) of this section must be marked with a number clearly identifying the owner or operator of the vessel. The number may be either:

- (i) If required by applicable state law, the vessel's number, the commercial fishing license number, or buoy brand number; or
- (ii) The vessel documentation number issued by the USCG, or, for an undocumented vessel, the vessel registration number issued by the state.

(d) Set nets. Fishing for groundfish with set nets is prohibited in the fishery management area north of 38°00' N. lat.

(e) Traps or pots. Traps must have biodegradable escape panels constructed with # 21 or smaller untreated cotton twine in such a manner that an opening at least 8 inches (20.3 cm) in diameter results when the twine deteriorates.

(f) Recreational fishing. The only types of fishing gear authorized for recreational fishing are hook-and-line and spear.

(g) Spears. Spears may be propelled by hand or by mechanical means.

#### **§ 660.312 Vessel Monitoring System (VMS) Requirements.**

(a) What is a VMS? A VMS consists of a NMFS OLE type-approved mobile transceiver unit that automatically determines the vessel's position and transmits it to a NMFS OLE type-approved communications service provider. The communications service provider receives the transmission and relays it to NMFS OLE.

(b) Who is required to have VMS? A vessel registered for use with a Pacific Coast groundfish limited entry permit that fishes in state or Federal water seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California is required to install a NMFS OLE type-approved mobile transceiver unit and to arrange for an NMFS OLE type-approved communications service provider to receive and relay transmissions to NMFS OLE, prior to fishing.



(c) How are mobile transceiver units and communications service providers approved by NMFS OLE?

(1) NMFS OLE will publish type-approval specifications for VMS components in the Federal Register or notify the public through other appropriate media.

(2) Mobile transceiver unit manufacturers or communication service providers will submit products or services to NMFS OLE for evaluation based on the published specifications.

(3) NMFS OLE may publish a list of NMFS OLE type-approved mobile transceiver units and communication service providers for the Pacific Coast groundfish fishery in the Federal Register or notify the public through other appropriate media. As necessary, NMFS OLE may publish amendments to the list of type-approved mobile transceiver units and communication service providers in the Federal Register or through other appropriate media. A list of VMS transceivers that have been type-approved by NMFS OLE may be mailed to the permit owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record and is not received because the applicant's actual address has changed without notification to NMFS, as required at 660.335(a)(2).

(d) What are the vessel owner's responsibilities? If you are a vessel owner that must participate in the VMS program, you or the vessel operator must:

(1) Obtain a NMFS OLE type-approved mobile transceiver unit and have it installed on board your vessel in accordance with the instructions provided by NMFS OLE. You may get a copy of the VMS installation and operation instructions from the NMFS OLE Northwest, VMS Program Manager upon request at 7600 Sand Point Way NE., Seattle, WA 98115-6349, phone: (206) 526-6133.

(2) Activate the mobile transceiver unit, submit an activation report, and receive confirmation from NMFS OLE that the VMS transmissions are being received before participating in a fishery requiring the VMS. Instructions for submitting an activation report may be obtained from the NMFS OLE, Northwest VMS Program Manager upon request at 7600 Sand Point Way NE., Seattle, WA 98115-6349, phone: (206)526-6133. An activation report must again be submitted to NMFS OLE following reinstallation of a mobile transceiver unit or change in service provider before the vessel may participate in a fishery requiring the VMS.

(i) Activation reports. If you are a vessel owner who must use VMS and you are activating a VMS transceiver unit for the first time or reactivating a VMS transceiver unit following a reinstallation of a mobile transceiver unit or change in service provider, you must fax NMFS OLE an activation report that includes: Vessel name; vessel owner's name, address and telephone number, vessel operator's name, address and telephone number, USCG vessel documentation number/state registration number; if applicable, the groundfish permit number the vessel is registered to; VMS transceiver unit manufacturer; VMS communications service provider; VMS transceiver identification; identifying if the unit is the primary or backup; and a statement signed and dated by the vessel owner confirming compliance with the installation procedures provided by NMFS OLE.

(ii) Ownership of the VMS transceiver unit may be transferred from one vessel to another vessel by submitting a new activation report, which identifies that the transceiver unit was previously registered to another vessel, and by providing proof of ownership of the VMS transceiver unit or proof of service termination from the communication service provider.

(3) Operate the mobile transceiver unit continuously 24 hours a day throughout the calendar year, unless such vessel is exempted under paragraph (d)(4) of this section.

(4) VMS exemptions. A vessel that is required to operate the mobile transceiver unit continuously 24 hours a day throughout the calendar year maybe exempted from this requirement if a valid exemption report, as described at paragraph (d)(4)(iii) of this section, is received by NMFS OLE and the vessel is in compliance with all conditions and requirements of the VMS exemption identified in this section.

(i) Haul out exemption. When it is anticipated that a vessel will be continuously out of the water for more than 7 consecutive days and a valid exemption report has been received by NMFS OLE, electrical power to the VMS mobile transceiver unit may be removed and transmissions may be discontinued. Under this exemption, VMS transmissions can be discontinued from the time the vessel is removed from the water until the time that the vessel is placed back in the water.

(ii) Outside areas exemption. When the vessel will be operating seaward of the EEZ off Washington, Oregon, or California continuously for more than 7 consecutive days and a valid exemption report has been received by NMFS OLE, the VMS mobile transceiver unit transmissions may be reduced or discontinued from the time the vessel leaves the EEZ off the coasts of Washington, Oregon or California until the time that the vessel re-enters the EEZ off the coasts of Washington, Oregon or California. Under this exemption, the vessel owner or operator can request that NMFS OLE reduce or discontinue the VMS transmissions after receipt of an exemption report, if the vessel is equipped with a VMS transceiver unit that NMFS OLE has approved for this exemption.

(iii) Exemption reports must be submitted through the VMS or another method that is approved by NMFS OLE and announced in the Federal Register. Other methods may include email, facsimile, or telephone. NMFS OLE will provide, through appropriate media, instructions to the public on submitting exemption reports. Instructions and other information needed to make exemption reports may be mailed to the limited entry permit owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record and is not received because the permit owner's actual address has changed without notification to NMFS, as required at 660.335(a)(2). Owners of vessels registered to limited entry permits that did not receive instructions by mail are responsible for contacting NMFS OLE during business hours at least 3 days before the exemption is required to obtain information needed to make exemption reports. NMFS OLE must be contacted during business hours (Monday through Friday between 0800 and 1700 Pacific Standard Time).

(iv) Exemption reports must be received by NMFS at least 2 hours and not more than 24 hours before the exempted activities defined at paragraph (d)(4)(i) and (ii)

of this section occur. An exemption report is valid until NMFS receives a report canceling the exemption. An exemption cancellation must be received at least 2 hours before the vessel re-enters the EEZ following an outside areas exemption or at least 2 hours before the vessel is placed back in the water following a haul out exemption.

(5) When aware that transmission of automatic position reports has been interrupted, or when notified by NMFS OLE that automatic position reports are not being received, contact NMFS OLE at 7600 Sand Point Way NE, Seattle, WA 98115-6349, phone: (206)526-6133 and follow the instructions provided to you. Such instructions may include, but are not limited to, manually communicating to a location designated by NMFS OLE the vessel's position or returning to port until the VMS is operable.

(6) After a fishing trip during which interruption of automatic position reports has occurred, the vessel's owner or operator must replace or repair the mobile transceiver unit prior to the vessel's next fishing trip. Repair or reinstallation of a mobile transceiver unit or installation of a replacement, including change of communications service provider shall be in accordance with the instructions provided by NMFS OLE and require the same certification.

(7) Make the mobile transceiver units available for inspection by NMFS OLE personnel, USCG personnel, state enforcement personnel or any authorized officer.

(8) Ensure that the mobile transceiver unit is not tampered with, disabled, destroyed or operated improperly.

(9) Pay all charges levied by the communication service provider as necessary to ensure continuous operation of the VMS transceiver units.

**§ 660.314 Groundfish observer program.** {revised at 69 FR 57874, September 28, 2004}

(a) General. Vessel owners, operators, and managers are jointly and severally responsible for their vessel's compliance with this section.

(b) Purpose. The purpose of the Groundfish Observer Program is to allow observers to collect fisheries data deemed by the Northwest Regional Administrator, NMFS, to be necessary and appropriate for management, compliance monitoring, and research in the groundfish fisheries and for the conservation of living marine resources and their habitat.

(c) Observer coverage requirements--

(1) At-sea processors. A catcher-processor or mothership 125 ft (38.1 m) LOA or longer must carry two NMFS-certified observers, and a catcher-processor or mothership shorter than 125 ft (38.1 m) LOA must carry one NMFS-certified observer, each day that the vessel is used to take, retain, receive, land, process, or transport groundfish.

(2) Catcher vessels. For the purposes of this section, catcher vessels include all vessels, using open access or limited entry gear (including exempted gear types) that take and retain, possess or land groundfish at a processor(s) as defined at § 660.302. When NMFS notifies the vessel owner, operator, permit holder, or the vessel manager of any requirement to carry an observer, the vessel may not take and retain, possess, or land any groundfish without carrying an observer.

(i) Notice of departure--Basic rule. At least 24 hours (but not more than 36 hours) before departing on a fishing trip, a vessel that has been notified by NMFS that it is required to carry an observer, or that is operating in an active sampling unit, must notify NMFS (or its designated agent) of the vessel's intended time of departure. Notice will be given in a form to be specified by NMFS.

(A) Optional notice--Weather delays. A vessel that anticipates a delayed departure due to weather or sea conditions may advise NMFS of the anticipated delay when providing the basic notice described in paragraph (c)(2)(i) of this section. If departure is delayed beyond 36 hours from the time the original notice is given, the vessel must provide an additional notice of departure not less than 4 hours prior to departure, in order to enable NMFS to place an observer.

(B) Optional notice--Back-to-back fishing trips. A vessel that intends to make back-to-back fishing trips (i.e., trips with less than 24 hours between offloading from one trip and beginning another), may provide the basic notice described in paragraph (c)(2)(i) of this section for both trips, prior to making the first trip. A vessel that has given such notice is not required to give additional notice of the second trip.

(ii) Cease fishing report. Not more than 24 hours after ceasing the taking and retaining of groundfish with limited entry or open access gear in order to leave the fishery management area or to fish for species not managed under the PCGFMP, the owner, operator, or vessel manager of each vessel that is required to carry an observer or that is operating in a segment of the fleet that NMFS has identified as an active sampling unit must provide NMFS or its designated agent with notification as specified by NMFS.

(3) Vessels engaged in recreational fishing. [Reserved]

(4) Waiver. The Northwest Regional Administrator may provide written notification to the vessel owner stating that a determination has been made to temporarily waive coverage requirements because of circumstances that are deemed to be beyond the vessel's control.

(d) Vessel responsibilities. An operator of a vessel required to carry one or more observer(s) must provide:

(1) Accommodations and food. Provide accommodations and food that are:

(i) At-sea processors. Equivalent to those provided for officers, engineers, foremen, deck-bosses or other management level personnel of the vessel.

(ii) Catcher vessels. Equivalent to those provided to the crew.

(2) Safe conditions. Maintain safe conditions on the vessel for the protection of observer(s) including adherence to all USCG and other applicable rules, regulations, or statutes pertaining to safe operation of the vessel, and provisions at §§ 600.725 and 600.746 of this chapter.

(3) Observer communications. Facilitate observer communications by:

(i) Observer use of equipment. Allowing observer(s) to use the vessel's communication equipment and personnel, on request, for the entry, transmission, and receipt of work-related messages, at no cost to the observer(s) or the U.S. or designated agent.

(ii) Functional equipment. Ensuring that the vessel's communications equipment, used by observers to enter and transmit data, is fully functional and operational.

(iii) Hardware and software. At-sea processing vessels must provide hardware and software pursuant to regulations at 50 CFR 679.50(f)(1)(iii)(B)(1) and 50 CFR 679.50(f)(2), as follows:

(A) Providing for use by the observer a personal computer in working condition that contains a full Pentium 120 Mhz or greater capacity processing chip, at least 32 megabytes of RAM, at least 75 megabytes of free hard disk storage, a Windows 9x or NT compatible operating system, an operating mouse, and a 3.5-inch (8.9 cm) floppy disk drive. The associated computer monitor must have a viewable screen size of at least 14.1 inches (35.8 cm) and minimum display settings of 600 x 800 pixels. The computer equipment specified in this paragraph (A) must be connected to a communication device that provides a modem connection to the NMFS host computer and supports one or more of the following protocols: ITU V.22, ITU V.22bis, ITU V.32, ITU V.32bis, or ITU V.34. Processors that use a modem must have at least a 28.8kbs Hayes-compatible modem. The above-specified hardware and software requirements do not apply to processors that do not process groundfish.

(B) NMFS-supplied software. Ensuring that each at-sea processing ship that is required to have two observers aboard obtains the data entry software provided by the Regional Administrator for use by the observer.

(4) Vessel position. Allow observer(s) access to, and the use of, the vessel's navigation equipment and personnel, on request, to determine the vessel's position.

(5) Access. Allow observer(s) free and unobstructed access to the vessel's bridge, trawl or working decks, holding bins, processing areas, freezer spaces, weight scales, cargo holds, and any other space that may be used to hold, process, weigh, or store fish or fish products at any time.

(6) Prior notification. Notify observer(s) at least 15 minutes before fish are brought on board, or fish and fish products are transferred from the vessel, to allow sampling the catch or observing the transfer, unless the observer specifically requests not to be notified.

(7) Records. Allow observer(s) to inspect and copy any state or Federal logbook maintained voluntarily or as required by regulation.

(8) Assistance. Provide all other reasonable assistance to enable observer(s) to carry out their duties, including, but not limited to:

- (i) Measuring decks, codends, and holding bins.
- (ii) Providing the observer(s) with a safe work area.
- (iii) Collecting bycatch when requested by the observer(s).
- (iv) Collecting and carrying baskets of fish when requested by the observer(s).
- (v) Allowing the observer(s) to collect biological data and samples.
- (vi) Providing adequate space for storage of biological samples.

(9) At-sea transfers to or from processing vessels. Processing vessels must:

- (i) Ensure that transfers of observers at sea via small boat or raft are carried out during daylight hours, under safe conditions, and with the agreement of observers involved.
- (ii) Notify observers at least 3 hours before observers are transferred, such that the observers can collect personal belongings, equipment, and scientific samples.
- (iii) Provide a safe pilot ladder and conduct the transfer to ensure the safety of observers during transfers.
- (iv) Provide an experienced crew member to assist observers in the small boat or raft in which any transfer is made.

(e) Procurement of observer services by at-sea processing vessels. Owners of vessels required to carry observers under paragraph (c)(1) of this section must arrange for observer services from an observer provider permitted by the North Pacific Groundfish Observer Program under 50 CFR 679.50(i), except that:

- (1) Vessels are required to procure observer services directly from NMFS when NMFS has determined and given notification that the vessel must carry NMFS staff or an individual authorized by NMFS in lieu of an observer provided by a permitted observer provider.
- (2) Vessels are required to procure observer services directly from NMFS and a permitted observer provider when NMFS has determined and given notification that the vessel must carry NMFS staff or individuals authorized by NMFS, in addition to an observer provided by a permitted observer provider.

(f) Observer certification and responsibilities—

(1) Observer Certification—

- (i) Applicability. Observer certification authorizes an individual to fulfill duties as specified in writing by the NMFS Observer Program Office while under the employ of a NMFS-permitted observer provider and according to certification endorsements as designated under paragraph (f)(1)(v) of this section.

(ii) Observer certification official. The Regional Administrator will designate a NMFS observer certification official who will make decisions for the Observer Program Office on whether to issue or deny observer certification.

(iii) Certification requirements. NMFS will certify individuals who:

(A) Are employed by an observer provider company permitted pursuant to 50 CFR 679.50 at the time of the issuance of the certification;

(B) Have provided, through their observer provider:

(1) Information identified by NMFS at 50 CFR 679.50(i)(2)(x)(A)(1)(iii) and (iv); and

(2) Information identified by NMFS at 50 CFR 679.50(i)(2)(x)(C) regarding the observer candidate's health and physical fitness for the job;

(C) Meet all education and health standards as specified in 50 CFR 679.50(i)(2)(i)(A) and (1)(2)(x)(C), respectively; and

(D) Have successfully completed NMFS-approved training as prescribed by the Observer Program.

(1) Successful completion of training by an observer applicant consists of meeting all attendance and conduct standards issued in writing at the start of training; meeting all performance standards issued in writing at the start of training for assignments, tests, and other evaluation tools; and completing all other training requirements established by the Observer Program.

(2) If a candidate fails training, he or she will be notified in writing on or before the last day of training. The notification will indicate: the reasons the candidate failed the training; whether the candidate can retake the training, and under what conditions, or whether, the candidate will not be allowed to retake the training. If a determination is made that the candidate may not pursue further training, notification will be in the form of an IAD denying certification, as specified under paragraph (f)(1)(iv)(A) of this section.

(E) Have not been decertified under paragraph (f)(3) of this section, or pursuant to 50 CFR 679.50.

(iv) Agency determinations on observer certification

(A) Denial of a certification. The NMFS observer certification official will issue a written IAD denying observer certification when the observer certification official determines that a candidate has unresolvable deficiencies in meeting the requirements for certification as specified in paragraph (f)(1)(iii) of this section. The IAD will identify the reasons certification was denied and what requirements were deficient.

(B) Appeals. A candidate who receives an IAD that denies his or her certification may appeal pursuant to paragraph (f)(4) of this section. A candidate who appeals the IAD will not be issued an interim observer

certification, and will not receive a certification unless the final resolution of that appeal is in the candidate's favor.

(C) Issuance of an observer certification. An observer certification will be issued upon determination by the observer certification official that the candidate has successfully met all requirements for certification as specified in paragraph (f)(1)(iii) of this section.

(v) Endorsements. The following endorsements must be obtained, in addition to observer certification, in order for an observer to deploy.

(A) Certification training endorsement. A certification training endorsement signifies the successful completion of the training course required to obtain observer certification. This endorsement expires when the observer has not been deployed and performed sampling duties as required by the Observer Program Office for a period of time, specified by the Observer Program, after his or her most recent debriefing. The observer can renew the endorsement by successfully completing certification training once more.

(B) Annual general endorsements. Each observer must obtain an annual general endorsement to their certification prior to his or her first deployment within any calendar year subsequent to a year in which a certification training endorsement is obtained. To obtain an annual general endorsement, an observer must successfully complete the annual briefing, as specified by the Observer Program. All briefing attendance, performance, and conduct standards required by the Observer Program must be met.

(C) Deployment endorsements. Each observer who has completed an initial deployment after certification or annual briefing must receive a deployment endorsement to their certification prior to any subsequent deployments for the remainder of that year. An observer may obtain a deployment endorsement by successfully completing all pre-cruise briefing requirements. The type of briefing the observer must attend and successfully complete will be specified in writing by the Observer Program during the observer's most recent debriefing.

(D) Pacific whiting fishery endorsements. A Pacific whiting fishery endorsement is required for purposes of performing observer duties aboard vessels that process groundfish at sea in the Pacific whiting fishery. A Pacific whiting fishery endorsement to an observer's certification may be obtained by meeting the following requirements:

- (1) Be a prior NMFS-certified observer in the groundfish fisheries off Alaska or the Pacific Coast, unless an individual with this qualification is not available;
- (2) Receive an evaluation by NMFS for his or her most recent deployment (if any) that indicated that the observer's performance met Observer Program expectations for that deployment;



- (3) Successfully complete a NMFS-approved observer training and/or whiting briefing as prescribed by the Observer Program; and
- (4) Comply with all of the other requirements of this section.

(2) Standards of observer conduct--

(i) Limitations on conflict of interest.

(A) Observers:

(1) Must not have a direct financial interest, other than the provision of observer services, in a North Pacific fishery managed pursuant to an FMP for the waters off the coast of Alaska, or in a Pacific Coast fishery managed by either the state or Federal governments in waters off Washington, Oregon, or California, including but not limited to:

(i) Any ownership, mortgage holder, or other secured interest in a vessel, shoreside or floating stationary processor facility involved in the catching, taking, harvesting or processing of fish,

(ii) Any business involved with selling supplies or services to any vessel, shoreside or floating stationary processing facility; or

(iii) Any business involved with purchasing raw or processed products from any vessel, shoreside or floating stationary processing facilities.

(2) Must not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who either conducts activities that are regulated by NMFS or has interests that may be substantially affected by the performance or nonperformance of the observers' official duties.

(3) May not serve as observers on any vessel or at any shoreside or floating stationary processing facility owned or operated by a person who previously employed the observers.

(4) May not solicit or accept employment as a crew member or an employee of a vessel, shoreside processor, or stationary floating processor while employed by an observer provider.

(B) Provisions for remuneration of observers under this section do not constitute a conflict of interest.

(ii) Standards of behavior. Observers must avoid any behavior that could adversely affect the confidence of the public in the integrity of the Observer Program or of the government, including but not limited to the following:

(A) Observers must perform their assigned duties as described in the Observer Manual or other written instructions from the Observer Program Office.

(B) Observers must accurately record their sampling data, write complete reports, and report accurately any observations of suspected violations of regulations relevant to conservation of marine resources or their environment.

(C) Observers must not disclose collected data and observations made on board the vessel or in the processing facility to any person except the owner or operator of the observed vessel or processing facility, an authorized officer, or NMFS.

(D) Observers must refrain from engaging in any illegal actions or any other activities that would reflect negatively on their image as professional scientists, on other observers, or on the Observer Program as a whole.

This includes, but is not limited to:

(1) Violating the drug and alcohol policy established by and available from the Observer Program;

(2) Engaging in the use, possession, or distribution of illegal drugs; or

(3) Engaging in physical sexual contact with personnel of the vessel or processing facility to which the observer is assigned, or with any vessel or processing plant personnel who may be substantially affected by the performance or non-performance of the observer's official duties.

### (3) Suspension and decertification—

(i) Suspension and decertification review official. The Regional Administrator (or a designee) will designate an observer suspension and decertification review official(s), who will have the authority to review observer certifications and issue initial administrative determinations of observer certification suspension and/or decertification.

(ii) Causes for suspension or decertification. The suspension/decertification official may initiate suspension or decertification proceedings against an observer:

(A) When it is alleged that the observer has committed any acts or omissions of any of the following:

(1) Failed to satisfactorily perform the duties of observers as specified in writing by the NMFS Observer Program; or

(2) Failed to abide by the standards of conduct for observers as prescribed under paragraph (f)(2) of this section;

(B) Upon conviction of a crime or upon entry of a civil judgment for:

(1) Commission of fraud or other violation in connection with obtaining or attempting to obtain certification, or in performing the duties as specified in writing by the NMFS Observer Program;  
{redesignated at 69 FR 57874, September 28, 2004}

(2) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; {redesignated at 69 FR 57874, September 28, 2004}e

(3) Commission of any other offense indicating a lack of integrity or honesty that seriously and directly affects the fitness of observers. {redesignated at 69 FR 57874, September 28, 2004}

(iii) Issuance of initial administrative determination. Upon determination that suspension or decertification is warranted under paragraph (f)(3)(ii) of this section, the suspension/decertification official will issue a written IAD to the observer via certified mail at the observer's most current address provided to NMFS. The IAD will identify whether a certification is suspended or revoked and will identify the specific reasons for the action taken. If the IAD issues a suspension for an observer certification, the terms of the suspension will be specified. Suspension or decertification is effective immediately as of the date of issuance, unless the suspension/decertification official notes a compelling reason for maintaining certification for a specified period and under specified conditions.

(iv) Appeals. A certified observer who receives an IAD that suspends or revokes his or her observer certification may appeal pursuant to paragraph (f)(4) of this section.

(4) Appeals.

(i) Decisions on appeals of initial administrative decisions denying certification to, or suspending, or decertifying, an observer, will be made by the Regional Administrator (or designated official).

(ii) Appeals decisions shall be in writing and shall state the reasons therefor.

(iii) An appeal must be filed with the Regional Administrator within 30 days of the initial administrative decision denying, suspending, or revoking the observer's certification.

(iv) The appeal must be in writing, and must allege facts or circumstances to show why the certification should be granted, or should not be suspended or revoked, under the criteria in this section.

(v) Absent good cause for further delay, the Regional Administrator (or designated official) will issue a written decision on the appeal within 45 days of receipt of the appeal. The Regional Administrator's decision is the final administrative decision of the Department as of the date of the decision.

(g) Sample station and operational requirements—

(1) Observer sampling station. This paragraph contains the requirements for observer sampling stations. The vessel owner must provide an observer sampling station that complies with this section so that the observer can carry out required duties.

(i) Accessibility. The observer sampling station must be available to the observer at all times.

(ii) Location. The observer sampling station must be located within 4 m of the location from which the observer samples unsorted catch. Unobstructed passage must be provided between the observer sampling station and the location where the observer collects sample catch.

(iii) Minimum work space aboard at-sea processing vessels. The observer must have a working area of 4.5 square meters, including the observer's sampling table, for sampling and storage of fish to be sampled. The observer must be able to stand upright and have a work area at least 0.9 m deep in the area in front of the table and scale.

(iv) Table aboard at-sea processing vessels. The observer sampling station must include a table at least 0.6 m deep, 1.2 m wide and 0.9 m high and no more than 1.1 m high. The entire surface area of the table must be available for use by the observer. Any area for the observer sampling scale is in addition to the minimum space requirements for the table. The observer's sampling table must be secured to the floor or wall.

(v) Diverter board aboard at-sea processing vessels. The conveyor belt conveying unsorted catch must have a removable board (diverter board) to allow all fish to be diverted from the belt directly into the observer's sampling baskets. The diverter board must be located downstream of the scale used to weigh total catch. At least 1 m of accessible belt space, located downstream of the scale used to weight total catch, must be available for the observer's use when sampling.

(vi) Other requirement for at-sea processing vessels. The sampling station must be in a well-drained area that includes floor grating (or other material that prevents slipping), lighting adequate for day or night sampling, and a hose that supplies fresh or sea water to the observer.

(vii) Observer sampling scale. The observer sample station must include a NMFS-approved platform scale (pursuant to requirements at 50 CFR 679.28(d)(5)) with a capacity of at least 50 kg located within 1 m of the observer's sampling table. The scale must be mounted so that the weighing surface is no more than 0.7 m above the floor.

(2) Requirements for bins used to make volumetric estimates on at-sea processing vessels. [Reserved]

(3) Operational requirements for at-sea processing vessels. [Reserved]

## **§ 660.320 Allocations.**

(a) General. The commercial portion of the Pacific Coast groundfish fishery, excluding the treaty Indian fishery, is divided into limited entry and open access fisheries. Separate allocations for the limited entry and open access fisheries will be established biennially or annually for certain species and/or areas using the procedures described in this subpart or the PCGFMP.

(1) Limited entry allocation. The allocation for the limited entry fishery is the allowable catch (harvest guideline or quota excluding set asides for recreational or tribal Indian fisheries) minus the allocation to the open access fishery.

(2) Open access allocation. The allocation for the open access fishery is derived by applying the open access allocation percentage to the annual harvest guideline or quota after subtracting any set asides for recreational or tribal Indian fisheries. For management areas where quotas or harvest guidelines for a stock are not fully utilized, no separate allocation will be established for the open access fishery until it is projected that the allowable catch for a species will be reached.

(b) Open access allocation percentage. For each species with a harvest guideline or quota, the initial open access allocation percentage is calculated by:

(1) Computing the total catch for that species during the window period by any vessel that does not initially receive a limited entry permit.

(2) Dividing that amount by the total catch during the window period by all gear.

(3) The guidelines in this paragraph (b)(3) apply to recalculation of the open access allocation percentage. Any recalculated allocation percentage will be used in calculating the following biennial fishing period's open access allocation.

(c) Catch accounting between the limited entry and open access fisheries. Any groundfish caught by a vessel with a limited entry permit will be counted against the limited entry allocation while the limited entry fishery for that vessel's limited entry gear is open. When the fishery for a vessel's limited entry gear has closed, groundfish caught by that vessel with open access gear will be counted against the open access allocation. All groundfish caught by vessels without limited entry permits will be counted against the open access allocation.

(d) Additional guidelines. Additional guidelines governing determination of the limited entry and open access allocations are in the PCGFMP.

(e) Treaty Indian fisheries. Certain amounts of groundfish may be set aside biennially or annually for tribal fisheries prior to dividing the balance of the allowable catch between the limited entry and open access fisheries. Tribal fisheries conducted under a set-aside are not subject to the regulations governing limited entry and open access fisheries.

(f) Recreational fisheries. Recreational fishing for groundfish is outside the scope of, and not affected by, the regulations governing limited entry and open access fisheries. Certain amounts of groundfish may be specifically allocated to the recreational fishery, and will be set aside prior to dividing the commercial allocation between the commercial limited entry and open access fisheries.

**§ 660.323 Pacific whiting allocations, allocation attainment, and inseason allocation reapportionment.** {revised at 69 FR 46448, August 3, 2004}

(a) Allocations. The commercial harvest guideline for whiting is allocated among three sectors, as follows: 34 percent for the catcher/processor sector; 24 percent for the mothership sector; and 42 percent for the shoreside sector. No more than 5 percent of the shoreside allocation may be taken and retained south of 42° N. lat. before the start of the primary season north of 42° N. lat. These allocations are harvest guidelines unless otherwise announced in the Federal Register.

(b) Reaching an allocation. If the whiting harvest guideline, commercial harvest guideline, or a sector's allocation is reached, or is projected to be reached, the following action(s) for the applicable sector(s) may be taken as provided under paragraph (e) of this section and will remain in effect until additional amounts are made available the next fishing year or under paragraph (e) of this section.

(1) Catcher/processor sector. Further taking and retaining, receiving, or at-sea processing of whiting by a catcher/processor is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a catcher/processor may continue to process whiting that was on board before at-sea processing was prohibited.

(i) Differential trip landing limits and frequency limits based on gear type, closed seasons. Trip landing and frequency limits that differ by gear type and closed seasons may be imposed or adjusted on a biannual or more frequent basis for the purpose of rebuilding and protecting overfished or depleted stocks. To achieve the rebuilding of an overfished or depleted stock, the Pacific whiting primary seasons described at § 660.323(3)(i) may be closed for any or all of the fishery sectors identified at § 660.323(4)(i)(A) before the sector allocation is reached. {added at 69 FR 46448, August 3, 2004}

(ii) [Reserved] {added at 69 FR 46448, August 3, 2004}

(2) Mothership sector. Further receiving or at-sea processing of whiting by a mothership is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a mothership may continue to process whiting that was on board before at-sea processing was prohibited. Whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the mothership sector.

(3) Shoreside sector. Whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the shoreside sector except as authorized under a trip limit specified under § 660.370(c).

(4) Shoreside south of 42° N. lat. If 5 percent of the shoreside allocation for whiting is taken and retained south of 42° N. lat. before the primary season for the shoreside sector begins north of 42° N. lat., then a trip limit specified under § 660.370(c) may be

implemented south of 42° N. lat. until the northern primary season begins, at which time the southern primary season would resume.

(c) Reapportionments. That portion of a sector's allocation that the Regional Administrator determines will not be used by the end of the fishing year shall be made available for harvest by the other sectors, if needed, in proportion to their initial allocations, on September 15 or as soon as practicable thereafter. NMFS may release whiting again at a later date to ensure full utilization of the resource. Whiting not needed in the fishery authorized under § 660.324 may also be made available.

(d) Estimates. Estimates of the amount of whiting harvested will be based on actual amounts harvested, projections of amounts that will be harvested, or a combination of the two. Estimates of the amount of Pacific whiting that will be used by shoreside processors by the end of the fishing year will be based on the best information available to the Regional Administrator from state catch and landings data, the survey of domestic processing capacity and intent, testimony received at Council meetings, and/or other relevant information.

(e) Announcements. The Assistant Administrator will announce in the Federal Register when a harvest guideline, commercial harvest guideline, or an allocation of whiting is reached, or is projected to be reached, specifying the appropriate action being taken under paragraph (b) of this section. The Regional Administrator will announce in the Federal Register any reapportionment of surplus whiting to other sectors on September 15, or as soon as practicable thereafter. In order to prevent exceeding the limits or to avoid underutilizing the resource, prohibitions against further taking and retaining, receiving, or at-sea processing of whiting, or reapportionment of surplus whiting may be made effective immediately by actual notice to fishermen and processors, by e-mail, internet ([http://www.nwr.noaa.gov/lstsfsh/groundfish/whiting\\_mgt.htm](http://www.nwr.noaa.gov/lstsfsh/groundfish/whiting_mgt.htm)), phone, fax, letter, press release, and/or USCG Notice to Mariners (monitor channel 16 VHF), followed by publication in the Federal Register, in which instance public comment will be sought for a reasonable period of time thereafter. If insufficient time exists to consult with the Council, the Regional Administrator will inform the Council in writing of actions taken.

#### **§ 660.324 Pacific Coast treaty Indian fisheries.**

(a) Pacific Coast treaty Indian tribes have treaty rights to harvest groundfish in their usual and accustomed fishing areas in U.S. waters.

(b) For the purposes of this part, Pacific Coast treaty Indian tribes means the Hoh, Makah, and Quileute Indian Tribes and the Quinault Indian Nation.

(c) The Pacific Coast treaty Indian tribes' usual and accustomed fishing areas within the fishery management area (FMA) are set out below in paragraphs (c)(1) through (c)(4) of this section. Boundaries of a tribe's fishing area may be revised as ordered by a Federal court.

(1) Makah--That portion of the FMA north of 48°02'15" N. lat. (Norwegian Memorial) and east of 125°44'00" W. long.

(2) Quileute--That portion of the FMA between 48°07'36" N. lat. (Sand Point) and 47°31'42" N. lat. (Queets River) and east of 125°44'00" W. long.

(3) Hoh--That portion of the FMA between 47°54'18" N. lat. (Quillayute River) and 47°21'00" N. lat. (Quinault River) and east of 125°44'00" W. long.

(4) Quinault--That portion of the FMA between 47°40'06" N. lat. (Destruction Island) and 46°53'18" N. lat. (Point Chehalis) and east of 125°44'00" W. long.

(d) Procedures. The rights referred to in paragraph (a) of this section will be implemented by the Secretary, after consideration of the tribal request, the recommendation of the Council, and the comments of the public. The rights will be implemented either through an allocation of fish that will be managed by the tribes, or through regulations in this section that will apply specifically to the tribal fisheries. An allocation or a regulation specific to the tribes shall be initiated by a written request from a Pacific Coast treaty Indian tribe to the Regional Administrator, prior to the first Council meeting in which biennial harvest specifications and management measures are discussed for an upcoming biennial management period. The Secretary generally will announce the annual tribal allocations at the same time as the announcement of the harvest specifications. The Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Accordingly, the Secretary will develop tribal allocations and regulations under this paragraph in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

(e) Identification. A valid treaty Indian identification card issued pursuant to 25 CFR part 249, subpart A, is prima facie evidence that the holder is a member of the Pacific Coast treaty Indian tribe named on the card.

(f) A limited entry permit under § 660.331 through § 660.341 is not required for participation in a tribal fishery described in paragraph (d) of this section.

(g) Fishing under this section by a member of a Pacific Coast treaty Indian tribe within their usual and accustomed fishing area is not subject to the provisions of other sections of this part.

(h) Any member of a Pacific Coast treaty Indian tribe must comply with this section, and with any applicable tribal law and regulation, when participating in a tribal groundfish fishery described in paragraph (d) of this section.



(i) Fishing by a member of a Pacific Coast treaty Indian tribe outside the applicable Indian tribe's usual and accustomed fishing area, or for a species of groundfish not covered by an allocation or regulation under this section, is subject to the regulations in the other sections of this part.

(j) Black rockfish. Harvest guidelines for commercial harvests of black rockfish by members of the Pacific Coast Indian tribes using hook and line gear will be established biennially for two subsequent one year periods for the areas between the U.S.-Canadian border and Cape Alava (48°09'30" N. lat.) and between Destruction Island (47°40'00" N. lat.) and Leadbetter Point (46°38'10" N. lat.), in accordance with the procedures for implementing harvest specifications and management measures. Pacific Coast treaty Indians fishing for black rockfish in these areas under these harvest guidelines are subject to the provisions in this section, and not to the restrictions in other sections of this part.

(k) Groundfish without a tribal allocation. Makah tribal members may use midwater trawl gear to take and retain groundfish for which there is no tribal allocation and will be subject to the trip landing and frequency and size limits applicable to the limited entry fishery.

#### **§ 660.331 Limited entry and open access fisheries—general.**

All commercial fishing for groundfish must be conducted in accordance with the regulations governing limited entry and open access fisheries, except such fishing by treaty Indian tribes as may be separately provided for.

#### **§ 660.333 Limited entry fishery—eligibility and registration.**

(a) General. In order for a vessel to participate in the limited entry fishery, the vessel owner must hold (by ownership or lease) a limited entry permit and, through SFD, must register that permit for use with his/her vessel. When participating in the limited entry fishery, a vessel is authorized to fish with the gear type endorsed on the limited entry permit registered for use with that vessel. There are three types of gear endorsements: trawl, longline, and pot (or trap). A sablefish endorsement is also required for a vessel to participate in the primary season for the limited entry fixed gear sablefish fishery, north of 36° N. lat. A limited entry permit confers a privilege of participating in the Pacific Coast limited entry groundfish fishery in accordance with Federal regulations in 50 CFR part 660.

(b) Eligibility. Only a person eligible to own a documented vessel under the terms of 46 U.S.C. 12102 (a) may be issued or may hold a limited entry permit.

(c) Registration. Limited entry permits will normally be registered for use with a particular vessel at the time the permit is issued, renewed, transferred, or replaced. If the permit will be used with a vessel other than the one registered on the permit, the permit owner must register that permit for use with the new vessel through the SFD. The reissued permit must be placed on board the new vessel in order for the vessel to participate in the limited entry fishery.

(1) Registration of a permit to be used with a new vessel will take effect no earlier than the first day of the next major limited entry cumulative limit period following the date SFD receives the transfer form and the original permit.

(2) The major limited entry cumulative limit periods will be announced in the *Federal Register* with the harvest specifications and management measures, and with routine management measures when the cumulative limit periods are changed.

(d) Limited entry permits indivisible. Limited entry permits may not be divided for use by more than one vessel.

(e) Initial decisions. SFD will make initial decisions regarding permit endorsements, renewal, replacement, and change in vessel registration. SFD will notify the permit holder in writing with an explanation of any decision to deny a permit endorsement, renewal, replacement, or change in vessel registration. The SFD will decline to act on an application for permit endorsement, renewal, transfer, replacement, or registration of a limited entry permit if the permit is subject to sanction provisions of the Magnuson-Stevens Act at 16 U.S.C. 1858 (a) and implementing regulations at 15 CFR part 904, subpart D, apply.

**§ 660.334 Limited entry permits—endorsements.** {revised at 69 FR 57874, September 28, 2004}

(a) “A” endorsement. A limited entry permit with an “A” endorsement entitles the holder to participate in the limited entry fishery for all groundfish species with the type(s) of limited entry gear specified in the endorsement, except for sablefish harvested north of 36° N. lat. during times and with gears for which a sablefish endorsement is required. See § 660.334 (d) for provisions on sablefish endorsement requirements. An “A” endorsement is transferable with the limited entry permit to another person, or to a different vessel under the same ownership under § 660.335. An “A” endorsement expires on failure to renew the limited entry permit to which it is affixed.

(b) Gear Endorsements. There are three types of gear endorsements: trawl, longline and pot (trap). When limited entry permits were first issued, some vessel owners qualified for more than one type of gear endorsement based on the landings history of their vessels. Each limited entry permit has one or more gear endorsement(s). Gear endorsement(s) assigned to the permit at the time of issuance will be permanent and shall not be modified. While participating in the limited entry fishery, the vessel registered to the limited entry permit is authorized to fish the gear(s) endorsed on the permit. While participating in the limited entry, primary fixed gear fishery for sablefish described at § 660.372, a vessel registered to more than one limited entry permit is

authorized to fish with any gear, except trawl gear, endorsed on at least one of the permits registered for use with that vessel. During the limited entry fishery, permit holders may also fish with open access gear; except that vessels fishing against primary sablefish season cumulative limits described at § 660.372(b)(3) may not fish with open access gear against those limits.

(c) Vessel size endorsements—

(1) General. Each limited entry permit will be endorsed with the LOA for the size of the vessel that initially qualified for the permit, except:

(i) If the permit is registered for use with a trawl vessel that is more than 5 ft (1.52 m) shorter than the size for which the permit is endorsed, it will be endorsed for the size of the smaller vessel. This requirement does not apply to a permit with a sablefish endorsement that is endorsed for both trawl and either longline or pot gear and which is registered for use with a longline or pot gear vessel for purposes of participating in the limited entry primary fixed gear sablefish fishery described at § 660.372.

(ii) When permits are combined into one permit to be registered for use with a vessel requiring a larger size endorsement, the new permit will be endorsed for the size that results from the combination of the permits as described in paragraph (c)(2)(iii) of this section.

(2) Limitations of size endorsements—

(i) A limited entry permit endorsed only for gear other than trawl gear may be registered for use with a vessel up to 5 ft (1.52 m) longer than, the same length as, or any length shorter than, the size endorsed on the existing permit without requiring a combination of permits under § 660.335 (b) or a change in the size endorsement.

(ii) A limited entry permit endorsed for trawl gear may be registered for use with a vessel between 5 ft (1.52 m) shorter and 5 ft (1.52 m) longer than the size endorsed on the existing permit without requiring a combination of permits under § 660.335 (b) or a change in the size endorsement under paragraph (c)(1)(i) of this section.

(iii) The vessel harvest capacity rating for each of the permits being combined is that indicated in Table 2 of this part for the LOA (in feet) endorsed on the respective limited entry permit. Harvest capacity ratings for fractions of a foot in vessel length will be determined by multiplying the fraction of a foot in vessel length by the difference in the two ratings assigned to the nearest integers of vessel length. The length rating for the combined permit is that indicated for the sum of the vessel harvest capacity ratings for each permit being combined. If that sum falls between the sums for two adjacent lengths on Table 2 of this part, the length rating shall be the higher length.

(3) Size endorsement requirements for sablefish endorsed permits. Notwithstanding paragraphs (c)(1) and (2) of this section, when multiple permits are “stacked” on a vessel as described in § 660.335 (c), only one of the permits must meet the size requirements of those sections. Any additional permits that are stacked for use with a vessel participating in the limited entry primary fixed gear sablefish fishery may be registered for use with a

vessel even if the vessel is more than 5 feet longer or shorter than the size endorsed on the permit.

(d) Sablefish endorsement and tier assignment—

(1) General. Participation in the limited entry fixed gear sablefish fishery during the primary season described in § 660.372 north of 36° N. lat., requires that an owner of a vessel hold (by ownership or lease) a limited entry permit, registered for use with that vessel, with a longline or trap (or pot) endorsement and a sablefish endorsement. Up to three permits with sablefish endorsements may be registered for use with a single vessel. Limited entry permits with sablefish endorsements are assigned to one of three different cumulative trip limit tiers, based on the qualifying catch history of the permit.

(i) A sablefish endorsement with a tier assignment will be affixed to the permit and will remain valid when the permit is transferred. {added at 69 FR 57874, September 28, 2004}

(ii) A sablefish endorsement and its associated tier assignment are not separable from the limited entry permit, and therefore may not be transferred separately from the limited entry permit. {added at 69 FR 57874, September 28, 2004}

(2) Endorsement and tier assignment qualifying criteria.

(i) Permit catch history. Permit catch history will be used to determine whether a permit meets the qualifying criteria for a fixed gear sablefish endorsement and to determine the appropriate tier assignment for endorsed permits. Permit catch history includes the catch history of the vessel(s) that initially qualified for the permit, and subsequent catch histories accrued when the limited entry permit or permit rights were associated with other vessels. The catch history of a permit also includes the catch of any interim permit held by the current owner of the permit during the appeal of an initial NMFS decision to deny the initial issuance of a limited entry permit, but only if the appeal for which an interim permit was issued was lost by the appellant, and the owner's current permit was used by the owner in the 1995 limited entry sablefish fishery. The catch history of an interim permit where the full "A" permit was ultimately granted will also be considered part of the catch history of the "A" permit. If the current permit is the result of the combination of multiple permits, then for the combined permit to qualify for an endorsement, at least one of the permits that were combined must have had sufficient sablefish history to qualify for an endorsement; or the permit must qualify based on catch occurring after it was combined, but taken within the qualifying period. If the current permit is the result of the combination of multiple permits, the combined catch histories of all of the permits that were combined to create a new permit before March 12, 1998, will be used in calculating the tier assignment for the resultant permit, together with any catch history (during the qualifying period) of the resultant permit. Only sablefish catch regulated by this part that was taken with longline or trap (pot) gear will be considered for the sablefish endorsement, except that vessels qualifying for the sablefish endorsement based on longline or trap (pot) landings may include setnet sablefish landings defined at (d)(2)(ii)(B) of this section in meeting tier assignment

qualifications. Sablefish harvested illegally or landed illegally will not be considered for this endorsement.

(ii) Sablefish endorsement tier assignments. Only limited entry, fixed gear permits with sablefish endorsements will receive cumulative trip limit tier assignments.

(A) The qualifying weight criteria for Tier 1 are at least 898,000 lb (407,326 kg) cumulative round weight of sablefish caught over the years 1984-1994. The qualifying weight criteria for Tier 2 are at least 380,000 lb (172,365 kg), but no more than 897,999 lb (407,326 kg) cumulative round weight of sablefish caught over the years 1984-1994. Fixed gear permits with less than 380,000 lb (172,365 kg) cumulative round weight of sablefish caught over the years 1984-1994 qualify for Tier 3. All qualifying sablefish landings must be caught with longline or trap (pot), although setnet landings defined at sub-paragraph (B) of this section may also be included in tier assignment qualifying landings. Sablefish taken in tribal set aside fisheries does not qualify.

(B) Setnet sablefish landings are included in sablefish endorsement tier assignment qualifying criteria if those landings were made north of 38° N. lat. under the authority of an EFP issued by NMFS in any of the years 1984-1985, by a vessel that landed at least 16,000 lb (7,257 kg) of sablefish with longline or trap (pot) gear in any one year between 1984-1994.

(iii) Evidence and burden of proof. A vessel owner (or person holding limited entry rights under the express terms of a written contract) applying for issuance, renewal, replacement, transfer, or registration of a limited entry permit has the burden to submit evidence to prove that qualification requirements are met. The owner of a permit endorsed for longline or trap (pot) gear applying for a sablefish endorsement or a tier assignment under this section has the burden to submit evidence to prove that qualification requirements are met. The following evidentiary standards apply:

(A) A certified copy of the current vessel document (USCG or State) is the best evidence of vessel ownership and LOA.

(B) A certified copy of a State fish receiving ticket is the best evidence of a landing, and of the type of gear used.

(C) A copy of a written contract reserving or conveying limited entry rights is the best evidence of reserved or acquired rights.

(D) Such other relevant, credible evidence as the applicant may submit, or the SFD or the Regional Administrator request or acquire, may also be considered.

(3) Issuance process for sablefish endorsements and tier assignments.

(i) No new applications for sablefish endorsements will be accepted after November 30, 1998.

(ii) All tier assignments and subsequent appeals processes were completed by September 1998. If, however, a permit owner with a sablefish endorsement

believes that his permit may qualify for a change in tier status based on qualifications in paragraph (d)(2)(ii)(B) of this section, the SFD will accept applications for a tier change through December 31, 2002. The application shall consist of a written letter stating the applicant's circumstances, requesting action, be signed by the applicant, and submitted along with the relevant documentation (fish tickets) in support of the application for a change in tier status.

(iii) After review of the evidence submitted under paragraph (ii), and any additional information the SFD finds to be relevant, the Regional Administrator will issue a letter of determination notifying a permit owner of whether the evidence submitted is sufficient to alter the initial tier assignment. If the Regional Administrator determines the permit qualifies for a different tier, the permit owner will be issued a permit with the revised tier assignment once the initial permit is returned to the SFD for processing.

(iv) If a permit owner chooses to file an appeal of the determination under paragraph (iii) of this section, the appeal must be filed with the Regional Administrator within 30 days of the issuance of the letter of determination. The appeal must be in writing and must allege facts or circumstances, and include credible evidence demonstrating why the permit qualifies for a different tier assignment. The appeal of a denial of an application for a different tier assignment will not be referred to the Council for a recommendation under § 660.340 (e).

(v) Absent good cause for further delay, the Regional Administrator will issue a written decision on the appeal within 30 days of receipt of the appeal. The Regional Administrator's decision is the final administrative decision of the Department of Commerce as of the date of the decision.

(4) Ownership requirements and limitations.

(i) No partnership or corporation may own a limited entry permit with a sablefish endorsement unless that partnership or corporation owned a limited entry permit with a sablefish endorsement on November 1, 2000. Otherwise, only individual human persons may own limited entry permits with sablefish endorsements.

(ii) No person, partnership, or corporation may have ownership interest in or hold more than three permits with sablefish endorsements, except for persons, partnerships, or corporations that had ownership interest in more than 3 permits with sablefish endorsements as of November 1, 2000. The exemption from the maximum ownership level of 3 permits only applies to ownership of the particular permits that were owned on November 1, 2000. Persons, partnerships or corporations that had ownership interest 3 or more permits with sablefish endorsements as of November 1, 2000, may not acquire additional permits beyond those particular permits owned on November 1, 2000. If, at some future time, a person, partnership, or corporation that owned more than 3 permits as of November 1, 2000, sells or otherwise permanently transfers (not leases) some of its originally owned permits, such that they then own fewer than 3 permits, they may then acquire additional permits, but may not have ownership interest in or hold more than 3 permits.

(iii) A partnership or corporation will lose the exemptions provided in paragraphs (d)(4)(i) and (ii) of this section on the effective date of any change in the corporation or partnership from that which existed on November 1, 2000. A “change” in the partnership or corporation means a change in the corporate or partnership membership, except a change caused by the death of a member providing the death did not result in any new members. A change in membership is not considered to have occurred if a member becomes legally incapacitated and a trustee is appointed to act on his behalf, nor if the ownership of shares among existing members changes, nor if a member leaves the corporation or partnership and is not replaced. Changes in the ownership of publicly held stock will not be deemed changes in ownership of the corporation.

(e) Endorsement restrictions. “A” endorsements, gear endorsements, sablefish endorsements, and sablefish tier assignments may not be transferred separately from the limited entry permit.

**§ 660.335 Limited entry permits—renewal, combination, stacking, change of permit ownership or permit holdership, and transfer.**

**(a) Renewal of limited entry permits and gear endorsements—**

(1) Limited entry permits expire at the end of each calendar year, and must be renewed between October 1 and November 30 of each year in order to remain in force the following year.

(2) Notification to renew limited entry permits will be issued by SFD prior to September 1 each year to the most recent address of the permit owner. The permit owner shall provide SFD with notice of any address change within 15 days of the change.

(3) Limited entry permit renewal requests received in SFD between November 30 and December 31 will be effective on the date that the renewal is approved. A limited entry permit that is allowed to expire will not be renewed unless the permit owner requests reissuance by March 31 of the following year and the SFD determines that failure to renew was proximately caused by illness, injury, or death of the permit owner.

**(b) Combining limited entry permits.** Two or more limited entry permits with “A” gear endorsements for the same type of limited entry gear may be combined and reissued as a single permit with a larger size endorsement as described in paragraph § 660.334 (c)(2)(iii). With respect to permits endorsed for nontrawl limited entry gear, a sablefish endorsement will be issued for the new permit only if all of the permits being combined have sablefish endorsements. If two or more permits with sablefish endorsements are combined, the new permit will receive the same tier assignment as the tier with the largest cumulative landings limit of the permits being combined.

(c) “Stacking” Limited Entry Permits. “Stacking” limited entry permits refers to the practice of registering more than one permit for use with a single vessel. Only limited entry permits with sablefish endorsements may be “stacked.” Up to three limited entry permits with sablefish endorsements may be registered for use with a single vessel during the primary sablefish season described at § 660.372(b). Privileges, responsibilities, and restrictions associated with stacking permits to participate in the primary sablefish fishery are described at § 660.372 and at § 660.334(d).

(d) Changes in permit ownership and permit holder—

(1) General. The permit owner may convey the limited entry permit to a different person. The new permit owner will not be authorized to use the permit until the change in permit ownership has been registered with and approved by the SFD. The SFD will not approve a change in permit ownership for limited entry permits with sablefish endorsements that does not meet the ownership requirements for those permits described at § 660.334 (d)(4).

(2) Effective date. The change in ownership of the permit or change in the permit holder will be effective on the day the change is approved by SFD, unless there is a concurrent change in the vessel registered to the permit. Requirements for changing the vessel registered to the permit are described at paragraph (e) of this section.

(e) Changes in vessel registration—transfer of limited entry permits and gear endorsements—

(1) General. A permit may not be used with any vessel other than the vessel registered to that permit. For purposes of this section, a permit transfer occurs when, through SFD, a permit owner registers a limited entry permit for use with a new vessel. Permit transfer applications must be submitted to SFD with the appropriate documentation described at paragraph (g) of this section. Upon receipt of a complete application, and following review and approval of the application, the SFD will reissue the permit registered to the new vessel.

(2) Application. A complete application must be submitted to SFD in order for SFD to review and approve a change in vessel registration. At a minimum, a permit owner seeking to transfer a limited entry permit shall submit to SFD a signed application form and his/her current limited entry permit before the first day of the cumulative limit period in which they wish to participate. If a permit owner provides a signed application and current limited entry permit after the first day of a cumulative limit period, the permit will not be effective until the succeeding cumulative limit period. SFD will not approve a change in vessel registration (transfer) until it receives a complete application, the existing permit, a current copy of the USCG 1270, and other required documentation.

(3) Effective date.

(i) Changes in vessel registration on permits will take effect no sooner than the first day of the next major limited entry cumulative limit period following the date that SFD receives the signed permit transfer form and the original limited entry permit. Major cumulative limit periods are defined as two-month trip limit periods in §660.302. Unless otherwise specified in the Federal Register, the major cumulative limit periods begin on January 1, March 1, May 1, July 1, September



1, and November 1. No transfer is effective until the limited entry permit has been reissued as registered with the new vessel.

(ii) Notwithstanding paragraph (i) of this section, if SFD receives the original sablefish endorsed permit, and a complete transfer application by August 14, 2001, the resultant change in vessel registration will be effective August 15, 2001, or as soon thereafter as the transfer has been approved. Transfer applications received after August 14, 2001, would be subject to the restrictions in paragraph (i) of this section.

(f) Restriction on frequency of transfers. Limited entry permits may not be registered for use with a different vessel (transfer) more than once per calendar year, except in cases of death of a permit holder or if the permitted vessel is totally lost as defined in 660.302. The exception for death of a permit holder applies for a permit held by a partnership or a corporation if the person or persons holding at least 50 percent of the ownership interest in the entity dies.

(1) A permit owner may designate the vessel registration for a permit as “unidentified,” meaning that no vessel has been identified as registered for use with that permit. No vessel is authorized to use a permit with the vessel registration designated as “unidentified.”

(2) When a permit owner requests that the permit's vessel registration be designated as “unidentified,” the transaction is not considered a “transfer” for purposes of this section. Any subsequent request by a permit owner to change from the “unidentified” status of the permit in order to register the permit with a specific vessel will be considered a change in vessel registration (transfer) and subject to the restriction on frequency and timing of changes in vessel registration (transfer).

(g) Application and supplemental documentation. Permit holders may request a transfer (change in vessel registration) and/or change in permit ownership or permit holder by submitting a complete application form. In addition, a permit owner applying for renewal, replacement, transfer, or change of ownership or change of permit holder of a limited entry permit has the burden to submit evidence to prove that qualification requirements are met. The owner of a permit endorsed for longline or trap (or pot) gear applying for a tier assignment under § 660.334 (d) has the burden to submit evidence to prove that certain qualification requirements are met. The following evidentiary standards apply:

(1) For a request to change a vessel registration and/or change in permit ownership or permit holder, the permit owner must provide SFD with a current copy of the USCG Form 1270 for vessels of 5 net tons or greater, or a current copy of a state registration form for vessels under 5 net tons.

(2) For a request to change the vessel registration to a permit, the permit holder must submit to SFD a current marine survey conducted by a certified marine surveyor in accordance with USCG regulations to authenticate the length overall of the vessel being newly registered with the permit. Marine surveys older than 3 years at the time of the request for change in vessel registration will not be considered “current” marine surveys for purposes of this requirement.

(3) For a request to change a permit's ownership where the current permit owner is a corporation, partnership or other business entity, the applicant must provide to SFD a corporate resolution that authorizes the conveyance of the permit to a new owner and which authorizes the individual applicant to request the conveyance on behalf of the corporation, partnership, other business entity.

(4) For a request to change a permit's ownership that is necessitated by the death of the permit owner(s), the individual(s) requesting conveyance of the permit to a new owner must provide SFD with a death certificate of the permit owner(s) and appropriate legal documentation that either: specifically transfers the permit to a designated individual(s); or, provides legal authority to the transferor to convey the permit ownership.

(5) For a request to change a permit's ownership that is necessitated by divorce, the individual requesting the change in permit ownership must submit an executed divorce decree that awards the permit to a designated individual(s).

(6) Such other relevant, credible documentation as the applicant may submit, or the SFD or Regional Administrator may request or acquire, may also be considered.

(h) Application forms available. Application forms for the change in vessel registration (transfer) and change of permit ownership or permit holder of limited entry permits are available from the SFD (see part 600 for address of the Regional Administrator). Contents of the application, and required supporting documentation, are specified in the application form.

(i) Records maintenance. The SFD will maintain records of all limited entry permits that have been issued, renewed, transferred, registered, or replaced.

**§§ 660.336 Reserved.**

**§§ 660.337 Reserved**

**§ 660.338 Limited entry permits—small fleet.**

(a) Small limited entry fisheries fleets that are controlled by a local government, are in existence as of July 11, 1991, and have negligible impacts on the groundfish resource, may be certified as consistent with the goals and objectives of the limited entry program and incorporated into the limited entry fishery. Permits issued under this subsection will be issued in accordance with the standards and procedures set out in the PCGFMP and will carry the rights explained therein.

(b) A permit issued under this section may be registered only to another vessel that will continue to operate in the same certified small fleet, provided that the total number of vessels in the fleet does not increase. A vessel may not use a small fleet limited entry permit for participation in the limited entry fishery outside of authorized activities of the small fleet for which that permit and vessel have been designated.

#### **§ 660.339 Limited entry permit fees.**

The Regional Administrator will charge fees to cover administrative expenses related to issuance of limited entry permits, including initial issuance, renewal, transfer, vessel registration, replacement, and appeals. The appropriate fee must accompany each application.

#### **§ 660.340 Limited entry permit appeals.**

(a) Decisions on appeals of initial decisions regarding issuance, renewal, change in vessel registration, change in permit owner or permit holder, and endorsement upgrade, will be made by the Regional Administrator.

(b) Appeals decisions shall be in writing and shall state the reasons therefor.

(c) Within 30 days of an initial decision by the SFD denying issuance, renewal, change in vessel registration, change in permit owner or permit holder, or endorsement upgrade, on the terms requested by the applicant, an appeal may be filed with the Regional Administrator.

(d) The appeal must be in writing, and must allege facts or circumstances to show why the criteria in this subpart have been met, or why an exception should be granted.

(e) At the appellant's discretion, the appeal may be accompanied by a request that the Regional Administrator seek a recommendation from the Council as to whether the appeal should be granted. Such a request must contain the appellant's acknowledgment that the confidentiality provisions of the Magnuson-Stevens Act at 16 U.S.C. 1853 (d) and part 600 of this chapter are waived with respect to any information supplied by Regional Administrator to the Council and its advisory bodies for purposes of receiving the Council's recommendation on the appeal. In responding to a request for a recommendation on appeal, the Council will apply the provisions of the PCGFMP in making its recommendation as to whether the appeal should be granted.

(f) Absent good cause for further delay, the Regional Administrator will issue a written decision on the appeal within 45 days of receipt of the appeal, or, if a recommendation from the

Council is requested, within 45 days of receiving the Council's recommendation. The Regional Administrator's decision is the final administrative decision of the Department as of the date of the decision.

**§ 660.341 Limited entry permit sanctions.**

Limited entry permits issued or applied for under this subpart are subject to sanctions pursuant to the Magnuson Act at 16 U.S.C. 1858(g) and 15 CFR part 904, subpart D.

**§ 660.350 Compensation with fish for collecting resource information--exempted fishing permits off Washington, Oregon, and California.**

In addition to the reasons stated in § 600.745(b)(1) of this chapter, an EFP may be issued under this subpart G for the purpose of compensating the owner or operator of a vessel for collecting resource information according to a protocol approved by NMFS. NMFS may issue an EFP allowing a vessel to retain fish as compensation in excess of trip limits or to be exempt from other specified management measures for the Pacific coast groundfish fishery.

(a) Compensation EFP for vessels under contract with NMFS to conduct a resource survey. NMFS may issue an EFP to the owner or operator of a vessel that conducted a resource survey according to a contract with NMFS. A vessel's total compensation from all sources (in terms of dollars or amount of fish, including fish from survey samples or compensation fish) will be determined through normal Federal procurement procedures. The compensation EFP will specify the maximum amount or value of fish the vessel may take and retain after the resource survey is completed.

(1) Competitive offers. NMFS may initiate a competitive solicitation (request for proposals or RFP) to select vessels to conduct resource surveys that use fish as full or partial compensation, following normal Federal procurement procedures.

(2) Consultation and approval. At a Council meeting, NMFS will consult with the Council and receive public comment on upcoming resource surveys to be conducted if groundfish could be used as whole or partial compensation. Generally, compensation fish would be similar to surveyed species, but there may be reasons to provide payment with healthier, more abundant, less restricted stocks, or more easily targeted species. For example, NMFS may decline to pay a vessel with species that are, or are expected to be, overfished, or that are subject to overfishing, or that are unavoidably caught with species that are overfished or subject to overfishing. NMFS may also consider levels of discards, bycatch, and other factors. If the Council does not approve providing whole or partial compensation for the conduct of a survey, NMFS will not use fish, other than fish taken during the scientific research, as compensation for that survey. For each proposal, NMFS will present:

- (i) The maximum number of vessels expected or needed to conduct the survey,
- (ii) An estimate of the species and amount of fish likely to be needed as compensation,
- (iii) When the survey and compensation fish would be taken, and
- (iv) The year in which the compensation fish would be deducted from the ABC before determining the optimum yield (harvest guideline or quota).

(3) Issuance of the compensation EFP. Upon successful completion of the survey, NMFS will issue a “compensation EFP” to the vessel if it has not been fully compensated. The procedures in § 600.745(b)(1) through (b)(4) of this chapter do not apply to a compensation EFP issued under this subpart for the Pacific coast groundfish fishery (50 CFR part 660, subpart G).

(4) Terms and conditions of the compensation EFP. Conditions for disposition of bycatch or any excess catch, for reporting the value of the amount landed, and other appropriate terms and conditions may be specified in the EFP. Compensation fishing must occur during the period specified in the EFP, but no later than the end of September of the fishing year following the survey, and must be conducted according to the terms and conditions of the EFP.

(5) Reporting the compensation catch. The compensation EFP may require the vessel owner or operator to keep separate records of compensation fishing and to submit them to NMFS within a specified period of time after the compensation fishing is completed.

(6) Accounting for the compensation catch. As part of the harvest specifications process (§ 660.370), NMFS will advise the Council of the amount of fish authorized to be retained under a compensation EFP, which then will be deducted from the next harvest specifications (ABCs) set by the Council. Fish authorized in an EFP too late in the year to be deducted from the following year's ABCs will be accounted for in the next management cycle where it is practicable to do so.

(b) Compensation for commercial vessels collecting resource information under a standard EFP. NMFS may issue an EFP to allow a commercial fishing vessel to take and retain fish in excess of current management limits for the purpose of collecting resource information (§ 600.745(b) of this chapter). The EFP may include a compensation clause that allows the participating vessel to be compensated with fish for its efforts to collect resource information according to NMFS’ approved protocol. If compensation with fish is requested in an EFP application, or proposed by NMFS, the following provisions apply in addition to those at § 600.745(b) of this chapter.

(1) Application. In addition to the requirements in § 600.745(b) of this chapter, application for an EFP with a compensation clause must clearly state whether a vessel's participation is contingent upon compensation with groundfish and, if so, the minimum amount (in metric tons, round weight) and the species. As with other EFPs issued under § 600.745 of this chapter, the application may be submitted by any individual, including a state fishery management agency or other research institution.

(2) Denial. In addition to the reasons stated in § 600.745(b)(3)(iii) of this chapter, the application will be denied if the requested compensation fishery, species, or amount is

unacceptable for reasons such as, but not limited to, the following: NMFS concludes the value of the resource information is not commensurate with the value of the compensation fish; the proposed compensation involves species that are (or are expected to be) overfished or subject to overfishing, fishing in times or areas where fishing is otherwise prohibited or severely restricted, or fishing for species that would involve unavoidable bycatch of species that are overfished or subject to overfishing; or NMFS concludes the information can reasonably be obtained at a less cost to the resource.

(3) Window period for other applications. If the Regional Administrator or designee agrees that compensation should be considered, and that more than a minor amount would be used as compensation, then a window period will be announced in the Federal Register during which additional participants will have an opportunity to apply. This notification would be made at the same time as announcement of receipt of the application and request for comments required under § 660.745(b). If there are more qualified applicants than needed for a particular time and area, NMFS will choose among the qualified vessels, either randomly, in order of receipt of the completed application, or by other impartial selection methods. If the permit applicant is a state, university, or Federal entity other than NMFS, and NMFS approves the selection method, the permit applicant may choose among the qualified vessels, either randomly, in order of receipt of the vessel application, or by other impartial selection methods.

(4) Terms and conditions. The EFP will specify the amounts that may be taken as scientific samples and as compensation, the time period during which the compensation fishing must occur, management measures that NMFS will waive for a vessel fishing under the EFP, and other terms and conditions appropriate to the fishery and the collection of resource information. NMFS may require compensation fishing to occur on the same trip that the resource information is collected.

(5) Accounting for the catch. Samples taken under this EFP, as well as any compensation fish, count toward the current year's catch or landings.

#### **§ 660.365 Overfished Species Rebuilding Plans.** {revised at 69 FR 57874, September 28, 2004}

For each overfished groundfish stock with an approved rebuilding plan, this section contains the standards to be used to establish annual or biennial OYs, specifically the target date for rebuilding the stock to its MSY level and the harvest control rule to be used to rebuild the stock. {added at 69 FR 57874, September 28, 2004}

(a) Canary rockfish. The target year for rebuilding the canary rockfish stock to  $B_{MSY}$  is 2074. The harvest control rule to be used to rebuild the canary rockfish stock is an annual harvest rate of  $F=0.022$ .

(b) Darkblotched rockfish. The target year for rebuilding the darkblotched rockfish stock to  $B_{MSY}$  is 2030. The harvest control rule to be used to rebuild the darkblotched rockfish stock is an annual harvest rate of  $F=0.032$ .

(c) Lingcod. The target year for rebuilding the lingcod stock to  $B_{MSY}$  is 2009. The harvest control rule to be used to rebuild the lingcod stock is an annual harvest rate of  $F=0.0531$  in the area north of  $40^{\circ}10'$  N. lat. and  $F=0.061$  for the area south of  $40^{\circ}10'$  N. lat.

(d) Pacific ocean perch (POP). The target year for rebuilding the POP stock to  $B_{MSY}$  is 2027. The harvest control rule to be used to rebuild the POP stock is an annual harvest rate of  $F=0.0257$ .

(e) Bocaccio. The target date for rebuilding the southern bocaccio stock to  $B_{MSY}$  is 2023. The harvest control rule to be used to rebuild the southern bocaccio stock is an annual harvest rate of  $F=0.0498$ . {added at 69 FR 57874, September 28, 2004}

(f) Cowcod. The target year for rebuilding the cowcod stock south of Point Conception to  $B_{MSY}$  is 2090. The harvest control rule to be used to rebuild the cowcod stock is an annual harvest rate of  $F=0.009$ . {added at 69 FR 57874, September 28, 2004}

(g) Widow rockfish. The target year for rebuilding the widow rockfish stock to  $B_{MSY}$  is 2038. The harvest control rule to be used to rebuild the widow rockfish stock is an annual harvest rate of  $F=0.0093$ . {added at 69 FR 57874, September 28, 2004}

(h) Yelloweye rockfish. The target year for rebuilding the yelloweye rockfish stock to  $B_{MSY}$  is 2058. The harvest control rule to be used to rebuild the yelloweye rockfish stock is an annual harvest rate of  $F=0.0153$ . {added at 69 FR 57874, September 28, 2004}

#### **§ 660.370 Specifications and management measures.**

(a) General. NMFS will establish and adjust specifications and management measures biennially or annually and during the fishing year. Management of the Pacific Coast groundfish fishery will be conducted consistent with the standards and procedures in the PCGFMP and other applicable law. The PCGFMP is available from the Regional Administrator or the Council.

(b) Biennial actions. The Pacific Coast Groundfish fishery is managed on a biennial, calendar year basis. Harvest specifications and management measures will be announced biennially, with the harvest specifications for each species or species group set for two sequential calendar years. In general, management measures are designed to achieve, but not exceed, the specifications, particularly optimum yields (harvest guidelines and quotas), commercial harvest guidelines and quotas, limited entry and open access allocations, or other approved fishery allocations, and to protect overfished and depleted stocks.

(c) Routine management measures. In addition to the catch restrictions in § 660.371 through 660.373, other catch restrictions that are likely to be adjusted on a biennial or more frequent basis may be imposed and announced by a single notification in the Federal Register if good cause exists under the APA to waive notice and comment, and if they have been designated as routine through the two-meeting process described in the PCGFMP. The following catch restrictions have been designated as routine:

(1) Commercial limited entry and open access fisheries-

(i) Trip landing and frequency limits, size limits, all gear. Trip landing and frequency limits have been designated as routine for the following species or species groups: widow rockfish, canary rockfish, yellowtail rockfish, Pacific

ocean perch, yelloweye rockfish, splitnose rockfish, bocaccio, cowcod, minor nearshore rockfish or shallow and deeper minor nearshore rockfish, shelf or minor shelf rockfish, and minor slope rockfish; DTS complex which is composed of Dover sole, sablefish, shortspine thornyheads, and longspine thornyheads; petrale sole, rex sole, arrowtooth flounder, Pacific sanddabs, and the flatfish complex, which is composed of those species plus any other flatfish species listed at § 660.302; Pacific whiting; lingcod; and “other fish” as a complex consisting of all groundfish species listed at § 660.302 and not otherwise listed as a distinct species or species group. Size limits have been designated as routine for sablefish and lingcod. Trip landing and frequency limits and size limits for species with those limits designated as routine may be imposed or adjusted on a biennial or more frequent basis for the purpose of keeping landings within the harvest levels announced by NMFS, and for the other purposes given in paragraphs (c)(1)(i)(A) and (B) of this section.

(A) Trip landing and frequency limits. To extend the fishing season; to minimize disruption of traditional fishing and marketing patterns; to reduce discards; to discourage target fishing while allowing small incidental catches to be landed; to protect overfished species; to allow small fisheries to operate outside the normal season; and, for the open access fishery only, to maintain landings at the historical proportions during the 1984-88 window period.

(B) Size limits. To protect juvenile fish; to extend the fishing season.

(ii) Differential trip landing and frequency limits based on gear type, closed seasons. Trip landing and frequency limits that differ by gear type and closed seasons may be imposed or adjusted on a biennial or more frequent basis for the purpose of rebuilding and protecting overfished or depleted stocks.

(2) Recreational fisheries all gear types. Routine management measures for all groundfish species, separately or in any combination, include bag limits, size limits, time/area closures, boat limits, hook limits, and dressing requirements. All routine management measures on recreational fisheries are intended to keep landings within the harvest levels announced by NMFS, to rebuild and protect overfished or depleted species, and to maintain consistency with State regulations, and for the other purposes set forth in this section.

(i) Bag limits. To spread the available catch over a large number of anglers; to protect and rebuild overfished species; to avoid waste.

(ii) Size limits. To protect juvenile fish; to protect and rebuild overfished species; to enhance the quality of the recreational fishing experience.

(iii) Season duration restrictions. To spread the available catch over a large number of anglers; to protect and rebuild overfished species; to avoid waste; to enhance the quality of the recreational fishing experience.

(3) All fisheries, all gear types depth-based management measures. Depth-based management measures, particularly the setting of closed areas known as Groundfish Conservation Areas may be imposed on any sector of the groundfish fleet using specific boundary lines that approximate depth contours with latitude/longitude waypoints.



Depth-based management measures and the setting of closed areas may be used to protect and rebuild overfished stocks.

(d) Changes to the regulations. Regulations under this subpart may be promulgated, removed, or revised. Any such action will be made according to the framework standards and procedures in the PCGFMP and other applicable law, and will be published in the Federal Register.

(e) Prohibited species. Groundfish species or species groups under the PCGFMP for which quotas have been achieved and/or the fishery closed are prohibited species. In addition, the following are prohibited species:

- (1) Any species of salmonid.
- (2) Pacific halibut.
- (3) Dungeness crab caught seaward of Washington or Oregon.

(f) Applicability. Groundfish species harvested in the territorial sea (0-3 nm) will be counted toward the catch limitations in § 660.370-660.373.

#### **§660.371 Black rockfish fishery management.**

The trip limit for black rockfish (*Sebastes melanops*) for commercial fishing vessels using hook-and-line gear between the U.S.-Canada border and Cape Alava (48°09'30" N. lat.), and between Destruction Island (47°40' N. lat.) and Leadbetter Point (46°38'10" N. lat.), is 100 lbs (45 kg) or 30 percent, by weight of all fish on board, whichever is greater, per vessel per fishing trip.

#### **§660.372 Fixed gear sablefish fishery management.**

This section applies to the primary season for the fixed gear limited entry sablefish fishery north of 36° N. lat., except for paragraph (c), of this section, which also applies to the open access fishery north of 36° N. lat. Limited entry and open access fixed gear sablefish fishing south of 36° N. lat. is governed by routine management measures imposed under § 660.370 (c).

(a) Sablefish endorsement. A vessel may not participate in the primary season for the fixed gear limited entry fishery, unless at least one limited entry permit with both a gear endorsement for longline or trap (or pot) gear and a sablefish endorsement is registered for use with that vessel. Permits with sablefish endorsements are assigned to one of three tiers, as described at § 660.334(d).

(b) Primary season limited entry, fixed gear sablefish fishery-

(1) Season dates. North of 36° N. lat., the primary sablefish season for limited entry, fixed gear vessels begins at 12 noon l.t. on April 1 and ends at 12 noon l.t. on October 31, unless otherwise announced by the Regional Administrator.

(2) Gear type. During the primary season and when fishing against primary season cumulative limits, each vessel authorized to participate in that season under paragraph (a) of this section may fish for sablefish with any of the gear types, except trawl gear, endorsed on at least one of the permits registered for use with that vessel.

(3) Cumulative limits.

(i) A vessel participating in the primary season will be constrained by the sablefish cumulative limit associated with each of the permits registered for use with that vessel. The Regional Administrator will biennially or annually calculate the size of the cumulative trip limit for each of the three tiers associated with the sablefish endorsement such that the ratio of limits between the tiers is approximately 1:1.75:3.85 for Tier 3:Tier 2:Tier 1, respectively. The size of the cumulative trip limits will vary depending on the amount of sablefish available for the primary fishery and on estimated discard mortality rates within the fishery. The size of the cumulative trip limits for the three tiers in the primary fishery will be announced in the Federal Register.

(ii) During the primary season, each vessel authorized to participate in that season under paragraph (a) of this section may take, retain, possess, and land sablefish, up to the cumulative limits for each of the permits registered for use with that vessel. If multiple limited entry permits with sablefish endorsements are registered for use with a single vessel, that vessel may land up to the total of all cumulative limits announced in the Federal Register for the tiers for those permits, except as limited by paragraph (b)(3)(iii) of this section. Up to 3 permits may be registered for use with a single vessel during the primary season; thus, a single vessel may not take and retain, possess or land more than 3 primary season sablefish cumulative limits in any one year. A vessel registered for use with multiple limited entry permits is subject to per vessel limits for species other than sablefish, and to per vessel limits when participating in the daily trip limit fishery for sablefish under paragraph (c) of this section.

(iii) If a permit is registered to more than one vessel during the primary season in a single year, the second vessel may only take the portion of the cumulative limit for that permit that has not been harvested by the first vessel to which the permit was registered. The combined primary season sablefish landings for all vessels registered to that permit may not exceed the cumulative limit for the tier associated with that permit.

(iv) A cumulative trip limit is the maximum amount of sablefish that may be taken and retained, possessed, or landed per vessel in a specified period of time, with no limit on the number of landings or trips.

(c) Limited entry and open access daily trip limit fisheries.

(1) Before the start of the primary season, all sablefish landings made by a vessel authorized under paragraph (a) of this section to participate in the primary season will be

subject to the restrictions and limits of the limited entry daily trip limit fishery for sablefish, which is governed by routine management measures imposed under § 660.370(c).

(2) Following the start of the primary season, all landings made by a vessel authorized under paragraph (a) of this section to participate in the primary season will count against the primary season cumulative limit(s) associated with the permit(s) registered for use with that vessel. Once a vessel has reached its total cumulative allowable sablefish landings for the primary season under paragraph (b)(3) of this section, any subsequent sablefish landings by that vessel will be subject to the restrictions and limits of the limited entry daily trip limit fishery for sablefish for the remainder of the calendar year.

(3) Vessels registered for use with a limited entry, fixed gear permit that does not have a sablefish endorsement may participate in the limited entry, daily trip limit fishery for as long as that fishery is open during the year, subject to routine management measures imposed under § 660.370.

(4) Open access vessels may participate in the open access, daily trip limit fishery for as long as that fishery is open during the year, subject to the routine management measures imposed under § 660.370(c).

(d) Trip limits. Trip and/or frequency limits may be imposed in the limited entry fishery on vessels that are not participating in the primary season under § 660.370(c). Trip and/or size limits to protect juvenile sablefish in the limited entry or open-access fisheries also may be imposed at any time under § 660.370(c). Trip limits may be imposed in the open-access fishery at any time under § 660.370(c).

**§660.373 Pacific whiting (whiting) fishery management.** {revised at 69 FR 57874, September 28, 2004}

(a) Sectors. The catcher/processor sector is composed of catcher/processors, which are vessels that harvest and process whiting during a calendar year. The mothership sector is composed of motherships and catcher vessels that harvest whiting for delivery to motherships. Motherships are vessels that process, but do not harvest, whiting during a calendar year. The shoreside sector is composed of vessels that harvest whiting for delivery to shore-based processors.

(b) Seasons. The primary seasons for the whiting fishery are: For the shore-based sector, the period(s) when the large-scale target fishery is conducted (when trip limits under paragraph (b) of this section are not in effect); for catcher/processors, the period(s) when at-sea processing is allowed and the fishery is open for the catcher/processor sector; and for vessels delivering to motherships, the period(s) when at-sea processing is allowed and the fishery is open for the mothership sector. Before and after the primary seasons, trip landing or frequency limits may be imposed under § 660.370(c). The sectors are defined at § 660.370(a).

(1) North of 40°30' N. lat. Different starting dates may be established for the catcher/processor sector, the mothership sector, catcher vessels delivering to shoreside

processors north of 42° N. lat., and catcher vessels delivering to shoreside processors between 42°-40°30' N. lat.

(i) Procedures. The primary seasons for the whiting fishery north of 40°30' N. lat. generally will be established according to the procedures of the PCGFMP for developing and implementing harvest specifications and apportionments. The season opening dates remain in effect unless changed, generally with the harvest specifications and management measures.

(ii) Criteria. The start of a primary season may be changed based on a recommendation from the Council and consideration of the following factors, if applicable: Size of the harvest guidelines for whiting and bycatch species; age/size structure of the whiting population; expected harvest of bycatch and prohibited species; availability and stock status of prohibited species; expected participation by catchers and processors; environmental conditions; timing of alternate or competing fisheries; industry agreement; fishing or processing rates; and other relevant information.

(2) South of 40°30' N. lat. The primary season starts on April 15 south of 40°30' N. lat.

(c) Closed areas. Pacific whiting may not be taken and retained in the following portions of the fishery management area:

(1) Klamath River Salmon Conservation Zone. The ocean area surrounding the Klamath River mouth bounded on the north by 41°38'48" N. lat. (approximately 6 nm north of the Klamath River mouth), on the west by 124°23' W. long. (approximately 12 nm from shore), and on the south by 41°26'48" N. lat. (approximately 6 nm south of the Klamath River mouth).

(2) Columbia River Salmon Conservation Zone. The ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nm due west from North Head along 46°18' N. lat. to 124°13'18" W. long., then southerly along a line of 167 True to 46°11'06" N. lat. and 124°11' W. long. (Columbia River Buoy), then northeast along Red Buoy Line to the tip of the south jetty.

(d) Eureka area trip limits. Trip landing or frequency limits may be established, modified, or removed under § 660.370 or § 660.373, specifying the amount of Pacific whiting that may be taken and retained, possessed, or landed by a vessel that, at any time during a fishing trip, fished in the fishery management area shoreward of the 100-fathom (183-m) contour (as shown on NOAA Charts 18580, 18600, and 18620) in the Eureka area (from 43°00' to 40°30' N. lat.).

(e) At-sea processing. Whiting may not be processed at sea south of 42°00' N. lat. (Oregon-California border), unless by a waste-processing vessel as authorized under paragraph (i) of this section.

(f) Time of day. Pacific whiting may not be taken and retained by any vessel in the fishery management area south of 42°00' N. lat. between 0001 hours to one-half hour after official sunrise (local time). During this time south of 42°00' N. lat., trawl doors must be on board any

vessel used to fish for whiting and the trawl must be attached to the trawl doors. Official sunrise is determined, to the nearest 5° lat., in The Nautical Almanac issued annually by the Nautical Almanac Office, U.S. Naval Observatory, and available from the U.S. Government Printing Office.

(g) Bycatch reduction and full utilization program for at-sea processors (optional). If a catcher/processor or mothership in the whiting fishery carries more than one NMFS-approved observer for at least 90 percent of the fishing days during a cumulative trip limit period, then groundfish trip limits may be exceeded without penalty for that cumulative trip limit period, if the conditions in paragraph (g)(1) of this section are met. For purposes of this program, “fishing day” means a 24-hour period, from 0001 hours through 2400 hours, local time, in which fishing gear is retrieved or catch is received by the vessel, and will be determined from the vessel's observer data, if available. Changes to the number of observers required for a vessel to participate in the program will be announced prior to the start of the fishery, generally concurrent with the harvest specifications and management measures. Groundfish consumed on board the vessel must be within any applicable trip limit and recorded as retained catch in any applicable logbook or report. [Note: For a mothership, non-whiting groundfish landings are limited by the cumulative landings limits of the catcher vessels delivering to that mothership.]

(1) Conditions. Conditions for participating in the voluntary full utilization program are as follows:

- (i) All catch must be made available to the observers for sampling before it is sorted by the crew.
- (ii) Any retained catch in excess of cumulative trip limits must either be:  
Converted to meal, mince, or oil products, which may then be sold; or donated to a bona fide tax-exempt hunger relief organization (including food banks, food bank networks or food bank distributors), and the vessel operator must be able to provide a receipt for the donation of groundfish landed under this program from a tax-exempt hunger relief organization immediately upon the request of an authorized officer.
- (iii) No processor or catcher vessel may receive compensation or otherwise benefit from any amount in excess of a cumulative trip limit unless the overage is converted to meal, mince, or oil products. Amounts of fish in excess of cumulative trip limits may only be sold as meal, mince, or oil products.
- (iv) The vessel operator must contact the NMFS enforcement office nearest to the place of landing at least 24 hours before landing groundfish in excess of cumulative trip limits for distribution to a hunger relief agency. Cumulative trip limits and a list of NMFS enforcement offices are found on the NMFS, Northwest Region homepage at <http://www.nwr.noaa.gov>.
- (v) If the meal plant on board the whiting processing vessel breaks down, then no further overages may be retained for the rest of the cumulative trip limit period unless the overage is donated to a hunger relief organization.
- (vi) Prohibited species may not be retained.
- (vii) Donation of fish to a hunger relief organization must be noted in the transfer log (Product Transfer/Offloading Log (PTOL)), in the column for total value, by

entering a value of "0" or "donation," followed by the name of the hunger relief organization receiving the fish. Any fish or fish product that is retained in excess of trip limits under this rule, whether donated to a hunger relief organization or converted to meal, must be entered separately on the PTOL so that it is distinguishable from fish or fish products that are retained under trip limits. The information on the Mate's Receipt for any fish or fish product in excess of trip limits must be consistent with the information on the PTOL. The Mate's Receipt is an official document that states who takes possession of offloaded fish, and may be a Bill of Lading, Warehouse Receipt, or other official document that tracks the transfer of offloaded fish or fish product. The Mate's Receipt and PTOL must be made available for inspection upon request of an authorized officer throughout the cumulative limit period during which such landings occurred and for 15 days thereafter.

(h) Additional restrictions on catcher/processors.

(1) A catcher/processor may receive fish from a catcher vessel, but that catch is counted against the catcher/processor allocation unless the catcher/processor has been declared as a mothership under paragraph (h)(3) of this section.

(2) A catcher/processor may not also act as a catcher vessel delivering unprocessed whiting to another processor in the same calendar year.

(3) When renewing its limited entry permit each year under § 660.335, the owner of a catcher/processor used to take and retain whiting must declare if the vessel will operate solely as a mothership in the whiting fishery during the calendar year to which its limited entry permit applies. Any such declaration is binding on the vessel for the calendar year, even if the permit is transferred during the year, unless it is rescinded in response to a written request from the permit holder. Any request to rescind a declaration must be made by the permit holder and granted in writing by the Regional Administrator before any unprocessed whiting has been taken on board the vessel that calendar year. {revised at 69 FR 57874, September 28, 2004}

(i) Processing fish waste at sea. A vessel that processes only fish waste (a "waste-processing vessel") is not considered a whiting processor and therefore is not subject to the allocations, seasons, or restrictions for catcher/processors or motherships while it operates as a waste-processing vessel. However, no vessel may operate as a waste-processing vessel 48 hours immediately before and after a primary season for whiting in which the vessel operates as a catcher/processor or mothership. A vessel must meet the following conditions to qualify as a waste-processing vessel:

(1) The vessel makes meal (ground dried fish), oil, or minced (ground flesh) product, but does not make, and does not have on board, surimi (fish paste with additives), fillets (meat from the side of the fish, behind the head and in front of the tail), or headed and gutted fish (head and viscera removed).

(2) The amount of whole whiting on board does not exceed the trip limit (if any) allowed under §660.370(c).

- (3) Any trawl net and doors on board are stowed in a secured and covered manner, and detached from all towing lines, so as to be rendered unusable for fishing.
- (4) The vessel does not receive codends containing fish.
- (5) The vessel's operations are consistent with applicable state and Federal law, including those governing disposal of fish waste at sea.

**§660.390 Groundfish Conservation Areas (GCAs).**

In § 660.302, a GCA is defined as “a geographic area defined by coordinates expressed in latitude and longitude, created and enforced for the purpose of contributing to the rebuilding of overfished West Coast groundfish species.” Specific GCAs may be defined here in this paragraph, or in the Federal Register, within the harvest specifications and management measures process. While some GCAs may be designed with the intent that their shape be determined by ocean bottom depth contours, their shapes are defined in regulation by latitude/longitude coordinates and are enforced by those coordinates. Fishing activity that is prohibited or permitted within a particular GCA is detailed in Federal Register documents associated with the harvest specifications and management measures process.

(a) Rockfish Conservation Areas (RCAs). RCAs are defined in the Federal Register through the harvest specifications and management measures process. RCAs may apply to a single gear type or to a group of gear types, such as “trawl RCAs” or “non-trawl RCAs”.

(b) Cowcod Conservation Areas (CCAs).

(1) The Western CCA is an area south of Point Conception that is bound by straight lines connecting all of the following points in the order listed:

33°50' N. lat., 119°30' W. long.;

33°50' N. lat., 118°50' W. long.;

32°20' N. lat., 118°50' W. long.;

32°20' N. lat., 119°37' W. long.;

33°00' N. lat., 119°37' W. long.;

33°00' N. lat., 119°53' W. long.;

33°33' N. lat., 119°53' W. long.;

33°33' N. lat., 119°30' W. long.;

and connecting back to 33°50' N. lat., 119°30' W. long.

(2) The Eastern CCA is a smaller area west of San Diego that is bound by straight lines connecting all of the following points in the order listed:

32°42' N. lat., 118°02' W. long.;

32°42' N. lat., 117°50' W. long.;

32°36'42" N. lat., 117°50' W. long.;

32°30' N. lat., 117°53'30" W. long.;  
32°30' N. lat., 118°02' W. long.;  
and connecting back to 32°42' N. lat., 118°02' W. long.

(c) Yelloweye Rockfish Conservation Area (YRCA). The YRCA is a C-shaped area off the northern Washington coast that is bound by straight lines connecting all of the following points in the order listed:

48°18' N. lat., 125°18' W. long.;  
48°18' N. lat., 124°59' W. long.;  
48°11' N. lat., 124°59' W. long.;  
48°11' N. lat., 125°11' W. long.;  
48°04' N. lat., 125°11' W. long.;  
48°04' N. lat., 124°59' W. long.;  
48°00' N. lat., 124°59' W. long.;  
48°00' N. lat., 125°18' W. long.; and connecting back to  
48°18' N. lat., 125°18' W. long.



\* \* \* \* \* [Table 1 is not relevant to West Coast Groundfish]

**Table 2 to Part 660--Vessel Capacity  
Ratings for West Coast Groundfish  
Limited Entry Permits**

Vessel length	Capacity rating	Vessel length	Capacity rating
<20.....	1.00	58.....	14.32
21.....	1.13	59.....	14.95
22.....	1.27	60.....	15.59
23.....	1.42	61.....	16.25
24.....	1.58	62.....	16.92
25.....	1.75	63.....	17.61
26.....	1.93	64.....	18.32
27.....	2.12	65.....	19.04
28.....	2.32	66.....	19.78
29.....	2.53	67.....	20.54
30.....	2.76	68.....	21.32
31.....	2.99	69.....	22.11
32.....	3.24	70.....	22.92
33.....	3.50	71.....	23.74
34.....	3.77	72.....	24.59
35.....	4.05	73.....	25.45
36.....	4.35	74.....	26.33
37.....	4.66	75.....	27.23
38.....	4.98	76.....	28.15
39.....	5.31	77.....	29.08
40.....	5.66	78.....	30.04
41.....	6.02	79.....	31.01
42.....	6.39	80.....	32.00
43.....	6.78	81.....	33.01
44.....	7.18	82.....	34.04
45.....	7.59	83.....	35.08
46.....	8.02	84.....	36.15
47.....	8.47	85.....	37.24
48.....	8.92	86.....	38.34
49.....	9.40	87.....	39.47
50.....	9.88	88.....	40.61
51.....	10.38	89.....	41.77
52.....	10.90	90.....	42.96
53.....	11.43	91.....	44.16
54.....	11.98	92.....	45.38
55.....	12.54	93.....	46.63
56.....	13.12	94.....	47.89
57.....	13.71	95.....	49.17

96.....	50.48	147.....	146.46
97.....	51.80	148.....	148.96
98.....	53.15	149.....	151.49
99.....	54.51	150.....	154.05
100.....	55.90	151.....	154.68
101.....	57.31	152.....	155.31
102.....	58.74	153.....	155.94
103.....	60.19	154.....	156.57
104.....	61.66	155.....	157.20
105.....	63.15	156.....	157.83
106.....	64.67	157.....	158.46
107.....	66.20	158.....	159.10
108.....	67.76	159.....	159.73
109.....	69.34	160.....	160.36
110.....	70.94	161.....	160.99
111.....	72.57	162.....	161.62
112.....	74.21	163.....	162.25
113.....	75.88	164.....	162.88
114.....	77.57	165.....	163.51
115.....	79.28	166.....	164.14
116.....	81.02	167.....	164.77
117.....	82.77	168.....	165.41
118.....	84.55	169.....	166.04
119.....	86.36	170.....	166.67
120.....	88.18	171.....	167.30
121.....	90.03	172.....	167.93
122.....	91.90	173.....	168.56
123.....	93.80	174.....	169.19
124.....	95.72	175.....	169.82
125.....	97.66	176.....	170.45
126.....	99.62	177.....	171.08
127.....	101.61	178.....	171.72
128.....	103.62	179.....	172.35
129.....	105.66	180.....	172.98
130.....	107.72	181.....	173.61
131.....	109.80	182.....	174.24
132.....	111.91	183.....	174.87
133.....	114.04	184.....	175.50
134.....	116.20	185.....	176.13
135.....	118.38	186.....	176.76
136.....	120.58	187.....	177.40
137.....	122.81	188.....	178.03
138.....	125.06	189.....	178.66
139.....	127.34	190.....	179.29
140.....	129.64	191.....	179.92
141.....	131.97	192.....	180.55
142.....	134.32	193.....	181.18
143.....	136.70	194.....	181.81
144.....	139.10	195.....	182.44
145.....	141.53	196.....	183.07
146.....	143.98	197.....	183.71

198.....	184.34	249.....	216.52
199.....	184.97	250.....	217.15
200.....	185.60	251.....	217.78
201.....	186.23	252.....	218.41
202.....	186.86	253.....	219.04
203.....	187.49	254.....	219.67
204.....	188.12	255.....	220.30
205.....	188.75	256.....	220.94
206.....	189.38	257.....	221.57
207.....	190.02	258.....	222.20
208.....	190.65	259.....	222.83
209.....	191.28	260.....	223.46
210.....	191.91	261.....	224.09
211.....	192.54	262.....	224.72
212.....	193.17	263.....	225.35
213.....	193.80	264.....	225.98
214.....	194.43	265.....	226.61
215.....	195.06	266.....	227.25
216.....	195.69	267.....	227.88
217.....	196.33	268.....	228.51
218.....	196.96	269.....	229.14
219.....	197.59	270.....	229.77
220.....	198.22	271.....	230.40
221.....	198.85	272.....	231.03
222.....	199.48	273.....	231.66
223.....	200.11	274.....	232.29
224.....	200.74	275.....	232.93
225.....	201.37	276.....	233.56
226.....	202.01	277.....	234.19
227.....	202.64	278.....	234.82
228.....	203.27	279.....	235.45
229.....	203.90	280.....	236.08
230.....	204.53	281.....	236.71
231.....	205.16	282.....	237.34
232.....	205.79	283.....	237.97
233.....	206.42	284.....	238.60
234.....	207.05	285.....	239.24
235.....	207.68	286.....	239.87
236.....	208.32	287.....	240.50
237.....	208.95	288.....	241.13
238.....	209.58	289.....	241.76
239.....	210.21	290.....	242.39
240.....	210.84	291.....	243.02
241.....	211.47	292.....	243.65
242.....	212.10	293.....	244.28
243.....	212.73	294.....	244.91
244.....	213.36	295.....	245.55
245.....	213.99	296.....	246.18
246.....	214.63	297.....	246.81
247.....	215.26	298.....	247.44
248.....	215.89	299.....	248.07

300.....	248.70	351.....	280.88
301.....	249.33	352.....	281.51
302.....	249.96	353.....	282.14
303.....	250.59	354.....	282.78
304.....	251.22	355.....	283.41
305.....	251.86	356.....	284.04
306.....	252.49	357.....	284.67
307.....	253.12	358.....	285.30
308.....	253.75	359.....	285.93
309.....	254.38	360.....	286.56
310.....	255.01	361.....	287.19
311.....	255.64	362.....	287.82
312.....	256.27	363.....	288.46
313.....	256.90	364.....	289.09
314.....	257.54	365.....	289.72
315.....	258.17	366.....	290.35
316.....	258.80	367.....	290.98
317.....	259.43	368.....	291.61
318.....	260.06	369.....	292.24
319.....	260.69	370.....	292.87
320.....	261.32	371.....	293.50
321.....	261.95	372.....	294.13
322.....	262.58	373.....	294.77
323.....	263.21	374.....	295.40
324.....	263.85	375.....	296.03
325.....	264.48	376.....	296.66
326.....	265.11	377.....	297.29
327.....	265.74	378.....	297.92
328.....	266.37	379.....	298.55
329.....	267.00	380.....	299.18
330.....	267.63	381.....	299.81
331.....	268.26	382.....	300.44
332.....	268.89	383.....	301.08
333.....	269.52	384.....	301.71
334.....	270.16	385.....	302.34
335.....	270.79	386.....	302.97
336.....	271.42	387.....	303.60
337.....	272.05	388.....	304.23
338.....	272.68	389.....	304.86
339.....	273.31	390.....	305.49
340.....	273.94	391.....	306.12
341.....	274.57	392.....	306.75
342.....	275.20	393.....	307.39
343.....	275.83	394.....	308.02
344.....	276.47	395.....	308.65
345.....	277.10	396.....	309.28
346.....	277.73	397.....	309.91
347.....	278.36	398.....	310.54
348.....	278.99	399.....	311.17
349.....	279.62	>400.....	311.80
350.....	280.25		